

SUBJECT CODE: 7BCS3C1

COMPANY LAW AND SECRETARIAL PRACTICE – I

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UNIT-1

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➤ E-FILLING SECRETARY DUTIES

UNIT – I

Company Meaning:

A Company is an association of persons formed for a common purpose.

Company – Definition:

Prof. Honey:

Company is an artificial person created by law having a separate entity with a perpetual succession and a common seal”

Sec 3(1) (i) & (ii) Indian companies Act 1956

Company means a company formed and registered under this Act or on existing company an “existing company” means a company formed and registered under any of the previous company laws.

Characteristics of Company:

- Voluntary Association
- Separate Legal Entity
- Artificial person
- Perpetual Succession

- Common Seal
- Limited Liability
- Transferability of Shares
- Diffused ownership
- Separation on ownership from Management
- Incorporation Association

1) A Voluntary Association:

A Company is a Voluntary association of person. A group of persons who has common a object join and form an association in order to direct their efforts towards achievement of their common goal.

2) Incorporated Association:

A company must be incorporated under the prevalent companies Act. The Law relating to companies in India is contained in the companies Act 1956 as amended from time to time. An association of persons registered under the companies act is called as Joint Stock Company.

3) Separate Legal Entity:

A Company is a legal entity separate from its members. The Company is not liable for the individual debts of its members similarly members are not liable for the debts of the company. So the creditors of the company can recover their money only from the property of the company. As the company has separate

legal entity, members can enter into contracts with the company like any other individual.

4) Artificial Person:

A company comes into existence through law. So it, is called as an artificial person. But it enjoys all the rights of a natural person. It can enter into contracts and own property in its name. It can be others and be sued by others.

5) Perpetual Succession:

A company has a continuous existence which is not affected by the death or in solvency or lunacy of any one of its members. Members may come and members may go but the company continues forever till it is wound up.

6) Common Seal:

As the company is an artificial person, Common seal is regarded as the official signature of the company. So, every company must have a common seal, with the name of the company engraved. All the important documents must bear the common seal which is duly witnessed by at least two directors.

7) Limited Liability:

The liability of the members of the company is limited to the amount unpaid on their respective shareholding. No member can be asked to pay more than his due.

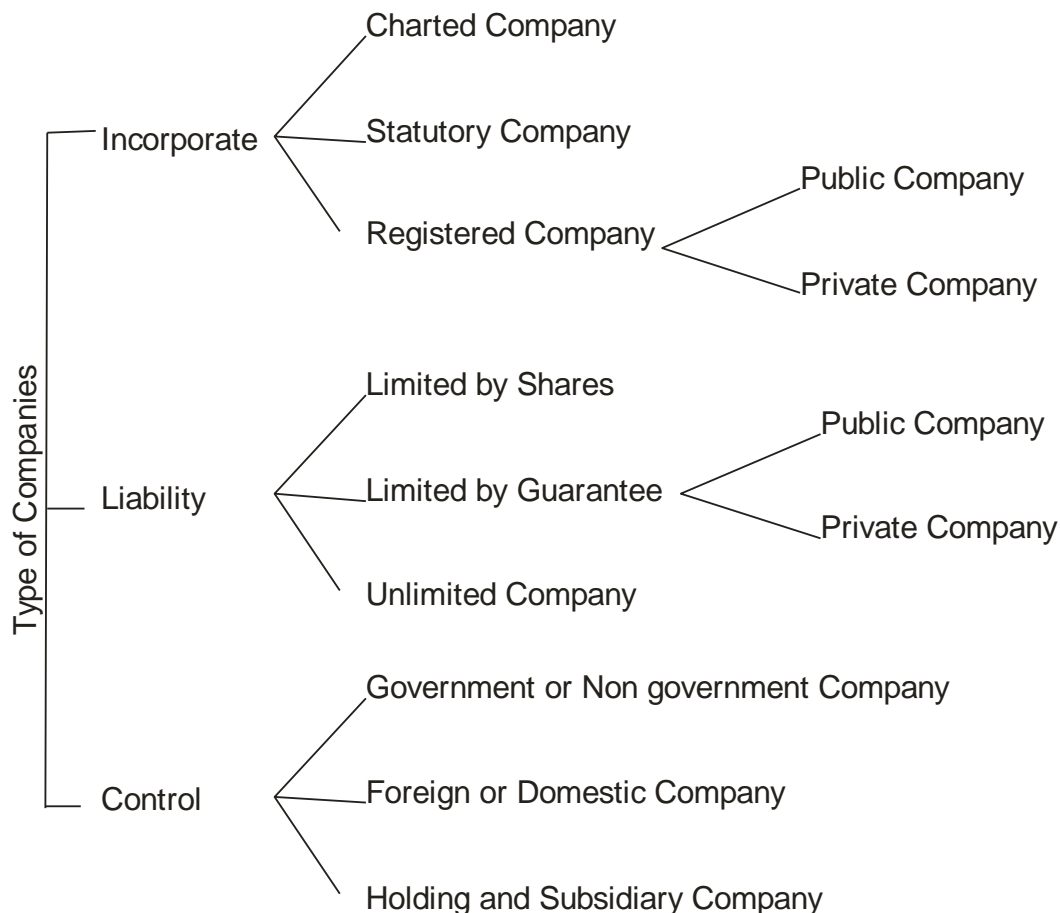
8) Transferability of Shares:

Shareholders can freely transfer the shares to anybody. Even the Articles cannot take away the right of a shareholder to transfer his shares.

Classification of Companies:

According to sec 12 of the company's act 1956. Seven or more persons or where the company to be formed will be private company and two or more persons may form an incorporate company with or with out limited liability.

In words of Leonard W.Hein “the right of limited liability is desirable, but not a necessary adjunct to incorporation”.



ON THE BASIS OF INCORPORATION

Chartered Companies:

Companies established as a result of royal charter granted by a king or queen of country (e.g.) East India Company and Bank of England.

Statutory Companies:

Companies that are formed by special acts of parliament or state legislations are called statutory companies. (Ex) RBI, LIC and etc.

Registered Companies:

Companies registered under the Indian companies' act 1956 or under any of the previous companies act are called registered companies.

Licensed Companies:

Companies established for promotion of arts. Science, religion, charity or any other objects can obtain license (sec 25).

Foreign Companies:

A company incorporated outside India under the law of the country of incorporation but having established its business in India.

ON BASIS OF LIABILITY**Limited liability:**

Liability of the shareholders remains limited to the nominal value of the shares held by him.

Limited by guarantee:

In a guarantee company, the liability of a shareholder is limited to the amount has voluntarily undertaken to contribute towards the assets of the company to meet out any deficiency as the time of its winding up.

On the Basis of number of members

A – Private company:

- In terms of sec 3(1) (iii) of the acts a private company means a company which has a minimum paid up capital of Rs.1 lac or such higher paid up capital as may be prescribed and which by its articles.
- Restricts the right to transfer its shares if any.
- Limits the no of its member to fifty not including employee of the company.
- Prohibits any invitation to the Public to subscribed for any share or debenture.
- Prohibits any invitation or acceptance of deposits from persons others than its member's directions or their relatives.

B. Public Company:

As per sec 3(1)(v) of the act, a public company is a company which

- Is not a Private company.

- Has a Minimum paid up capital of Rs.25 lakhs or such higher paid up capital as may be prescribed.
- Is a Private which is a subsidiary of a company which is not private.

ON THE BASTS OF OWNERSHIP

Government Company:

Section 617 of companies' act 1956. Defines a government company as any company in which not less than 51% of the paid up capital is held by the any government or subsidiary of a Government company.

Non – Government Company:

It is controlled and operated by private capital.

Investment Companies:

The principal business of which consists in acquiring holding and dealing in shares and securities.

Finance Companies:

According to rule 2(cc) of the companies (acceptance of deposit) rule 1975 a "Finance company" means a non-banking company which is a Financial institution within the meaning of clause © of sec. 45 -1 of RBI act, 1934.

Producer Companies:

Formation of Producer Company dealing with primary produce on Co-operative principles. The scope of the proposed company is restricted to dealing with Primary produce. Several significant concepts have been defined for the first time under the companies act. 2013 and two new concepts relating to types of companies are "One Person Company" and "small company" which have been explained hereunder.

One person company (Section 2(62))

As per section 2(62). “One person company” (OPC) Means a company which has only one person as a member. The Memorandum of a company shall state the last letters and word “OPC Limited” in the case of a one person limited company. The Memorandum of a one person company shall indicate the name of the person who shall in the event of the subscriber’s death disability or otherwise become the member of the company.

Small Company [Section 2(85)]

Small company means a company other than a public company.

- Paid – up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed which shall not be more than five crore rupees (or)
- Turnover of which as per its last profit and loss account does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than twenty crore rupees. But nothing in this clause shall apply to :
 - A holding company or a subsidiary company.
 - A company registered under section 8 or
 - A company or body corporate governed by any special act.

Dormant Company [Section 455]

The 2013 act states that a company can be classified as dormant when it is formed and registered under the 2013 Act for a future project or to hold an asset or intellectual property and has no significant accounting transaction. Such a company or an inactive one may apply to the Roc in such manner as may be prescribed for obtaining the status of a dormant company.

Difference between a public company and a Private Company:

S.no.	Point of Distinction	Public Company	Private Company
1.	Minimum number	Seven	Two
2.	Maximum Number	No such ceiling	Two hundred
3.	Number of directions	Minimum : Three maximum : Fifteen	Minimum : Two Maximum : Fifteen
4.	Restriction on appointment of direction	The directors shall file with the Register a consent letter to act as direction.	No such consent letter of directors is to be filed with the Registrar
5.	Restriction on invitation to subscribe for shares	A Public company invites the public to subscribe for the shares or the debentures of the company	A private company by its Articles prohibits invitation to public to subscribe for its shares.
6.	Name of the company	A public company may or may not suffix the word "Public limited" in its name.	A Private company must suffix the term, private with its name.
7.	Issue of Prospectus	Issue of Prospectus is mandatory	Prospectus is not all prepared and

			issued.								
8.	Transferability of shares	The shares are freely transferable	The rights to transfer the shares are restricted by the Articles of the company.								
9.	Special Privileges	No such Privilege is available	A private company enjoys some privileges								
10	Quorum	<table><tr><td>Number of Members</td><td>Quorum</td></tr><tr><td>Below -1000</td><td>5</td></tr><tr><td>1000 – 5000</td><td>15</td></tr><tr><td>Above 5000</td><td>20</td></tr></table>	Number of Members	Quorum	Below -1000	5	1000 – 5000	15	Above 5000	20	Two members shall be personally present
Number of Members	Quorum										
Below -1000	5										
1000 – 5000	15										
Above 5000	20										
11.	Managerial remuneration	Shall not exceed eleven percent of the net profits of the company.	No such restriction is applicable to a private company.								
12.	Commencement of business	A public company cannot commence its business until it is granted a certificate of commencement of business	A Private company may commence its business immediately after obtaining a certificate of incorporation								

Formation and incorporation of Company:

A Company may be formed either to take over an existing business or to carry on new business. The procedure for the formation of a company may be divided into 3 principal stages.

- Promotion
- Incorporation
- Commencement of Business

Company Promotion:

- The word promotion has not been defined in the Companies act.
- According to Bowen “the term promoter is a term not of law but of business, usually summing up in a single word a no of business operations familiar to the commercial world by which a company is generally brought into existence”.

Functions of Promoters:

- Promoter chooses the company's name and ascertains that it will be accepted by the registrar of companies.
- Prepares details of company's MOA and AOA nomination of directors, solicitors, bankers, auditors and secretary and registered office of company.
- Promoter responsible for registration of company issue of prospectus (public) in fact bringing the company into existence.

Legal Position of Promoters:

- Companies act 1956 imposed fiduciary duties on the promoters.
- He shouldn't make any secret profit at the expense of company.

Preliminary or Pre – incorporation contracts:

- As promoters are not agents of the company in such cases. Companies are not liable for the acts of promoters entered into before incorporation.
- However the above term “Provisional” contracts which are entered into by a Public company.

Incorporation of company:

While selecting name, the promoters will keep in mind the provisions of Company

Promotion:

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MEMORANDUM OF ASSOCIATION

Definition:

According to section 2(56) “memorandum” means the memorandum of association of a company as originally framed or as altered from time to time in pursuance of any previous company law or of this Act. Purpose of Memorandum.

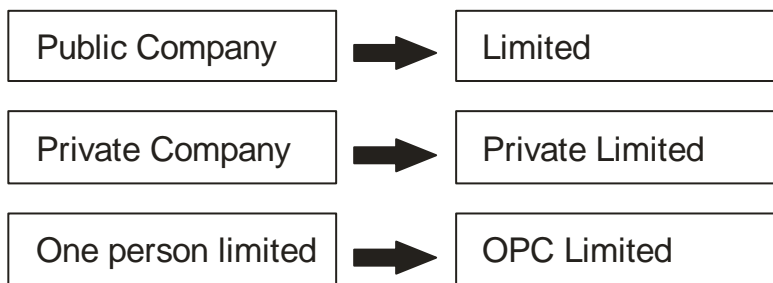
Purpose of Memorandum:

- According to Lord Mac Millan “the purpose of memorandum is to enable the shareholders. Creditors as well as those who are deal with the company to know the company’s permitted range of enterprise”.
- It enables the prospective shareholders the purpose for which their money is going to be utilized by the company and the risks the shareholder are expected to such investment.

Contents of Memorandum of Association [Section 4]

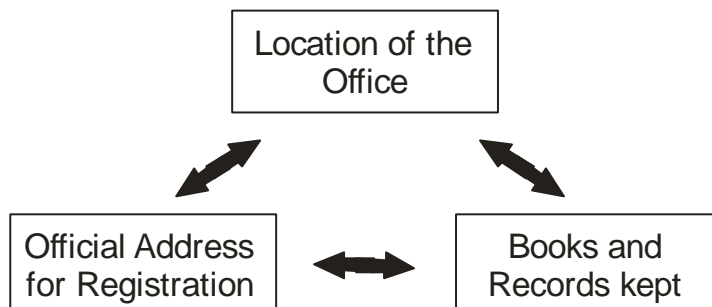
- Section 4 of the companies Act, 2013 contains the provisions relating to memorandum of Association. As per this section the Memorandum of association shall contain the following clauses.
- Name clause
- Registered Office clause
- Objects Clause
- Liability clause
- Capital clause
- Association clause
- Successor Member clause

1) Name Clause:



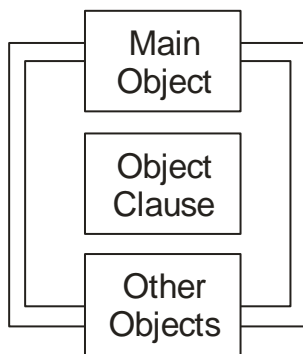
- The Memorandum of Association of a company shall state the name of the company with the last word “Limited” in the case of a public limited company or the last words” Private Limited” in the case of a Private Limited company. The one person company shall use the word “OPC Limited in its name.

2) Registered Office Clause [Section 4(1) (b)]



- The State in which the registered office of a company will be situated is mentioned in this clause. The registered office of the company is the official address of the company where the statutory books and records must normally be kept.

3) Object Clause [Section 4(1) (c)]



- This is the most important clause in the memorandum because it not only shows the object or objects for which the company is formed, but also determines the extend of the powers which the company can exercise in order to achieve the object or objects.

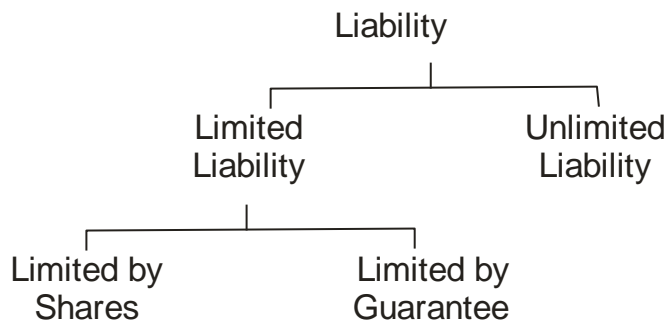
Main Object:

- This sub – clause has to state the main objects to be pursued by the company on its incorporation and objects incidental or Ancillary to the attainment of main objects.

Other Objects

- The Object of the Company shall not be an illegal one (e.g.) to carry on lottery business.
- The Objects shall be stated clearly and definitely. An ambiguous statement like “Company may take up any work which it deems profitable” is meaning less.

4) Liability Clause [Section 4(1) (d)]



In the case of a company limited by shares:

The liability of its members is limited to the amount unpaid, if any on the shares hold by them.

In the Case of a Company limited by guarantee:

To the assets of the company in the event of its being wound – up while he is a member or within one year after he ceases to be a member. For payment of the debts and liabilities of the company or of such debts and liabilities as may have been contracted before he ceases to be a member.

5) Capital clause - Section 4(1) (e) :

In case of a company having a share capital memorandum shall also slate the amount of share Capital with which the company is to be registered and division thereof into shares of a fixed amount.

6) Association Clause [Section 4(1)] :

This Clause shall contain the declaration of its subscribers. The subscribers declare that they desire to be formed into a company and agree to take the shares stated against their names. The names address and occupation of the subscribers must be given. Each subscriber has to take at least one share. The Memorandum shall be signed by at least seven subscribers in the case of a public company and by at least two subscribers in the case of a Private company.

7) Successor Member clause [Section 4(1) (f)]

This distinctive clause is applicable to one person company only. This clause shall State the name of the successor member who will become the member of the company in the event of death of the sole member.

DOCTRINE OF ULTRA VIRES

- “Ultra means beyond “Vires” means powers. An action outside the memorandum is ultra vires the company. The doctrine of ultra vires refers to unauthorized acts.
- An act may be ultra vires the companies act the memorandum of association. Article of association the directors.
- Act which ultra vires the companies act shall not only be invalid and void but also illegal.
- Acts ultra vires the memorandum, shall be void.
- Acts ultra vires the articles can be adopted or ratified by altering the articles with retrospective effect.

- Acts Ultra vires the directors can be made valid and binding upon the company by the acquiescence of all the members of a company.

Articles of Association:

- According to sec. 2 (2). “Article” means the articles of association of a company as originally framed or altered from time to time in pursuance of any previous companies act or this act.
- The articles of association are the rules and regulations and bye – laws for the internal management of the affairs of a company.

Contents of Articles:

The article contains rules and regulations regarding.

- Share capital and variation of right
- Lien on shares
- Calls on shares
- Transfer, transmission. Forfeiture and surrender of share.
- Issue of share warrants
- Alteration and reduction of capital
- Voting powers of members
- Borrowing powers

- Audit committee
- Dematerialization
- Buy back of shares
- Proceedings at the board and at the general body meetings.
- Appointment, Powers, duties qualifications, remunerations and etc. of directors.
- Appointment of manager, managing director and secretary.
- Dividends and reserves
- Maintenance of books of accounts and their audit.
- The Company's seal
- Winding up. Table of schedule I of the act deals with regulations for management of a company limited by shares.

However the following companies shall have their own article of association

- Unlimited companies
- Companies limited by guarantee
- Private companies limited by shares

Form and signature of articles:

The articles shall be

- Printed
- Divided into : Paragraphs
- Signed by each subscriber of memorandum

Different between Memorandum of Association and Articles of Association :

Memorandum of Association	Articles of Association
Memorandum of association is the charter of the company and defines the scope of its activities.	An article of association of the company is a document which regulates the internal management of the company.
It defines the relation of the company with the rights of the members of the company and establishes the relationship of the company with the members.	These are the rules made by the company for carrying out the objects of the company as set out in the memorandum.
Memorandum of association cannot be altered except in the manner and to the extent provided by the act.	The articles being only the bye laws of the company can be altered by a special resolution.
Memorandum is a supreme document of the company.	Articles are subordinate to the memorandum. They cannot alter or control the memorandum.
A company cannot depart from the provisions contained in its memorandum and if it does, it would be ultra – vires the company.	Anything done against the provisions of articles but which is intra – vires the memorandum can be ratified.

DOCTRINE OF CONSTRUCTIVE NOTICE:

- MOA and NOA are available for public inspection in the Registrar's office on payment of Rs.50/- for each inspection (sec 610)
- The person contracting with the companies know the content of these two documents is known as "Doctrine constructive notice" or constructive notice of memorandum of articles.

Doctrine of Indoor Management:

- Outsiders are bound to read the registered documents and to see that the proposal dealing is not inconsistent there with. But they are not bound to do more they need not inquire into the regularity of internal proceedings as required by the MOA.
- This limitation of the doctrine of constructive notice is called "Doctrine of indoor management".

Formation and incorporation of Company:

A Company may be formed either to take over an existing business or to carry on new business. The procedure for the formation of a company may be divided into 3 principal stages.

- Promotion
- Incorporation
- Commencement of Business

Incorporation of company:

- While selecting name, the promoters will keep in mind the provisions of sec 20 and guidelines name of companies issued by government.
- Decision objects, the place where business is to be carried out. The extent of the responsibility of each members for losses and etc., embody in the document called “Memorandum of Association”.
- Frame of rules and regulations for the company’s internal management which will be incorporated in “Articles of Association”.
- These two documents to be signed by at least 7 person (public company) 2 persons private company, with requisite stamp duly and delivered with necessary stamp duty and delivered with necessary registration and filing files.
- According to sec 266 of the companies act a person can’t be appointed as director by the articles of a public company having share capital. Unless the person before the articles are registered has signed and filed with the register either himself or through his agent his consent act as director.
- Power of attorney on a non-judicial stamp of a value prescribed in the stamp laws of the state concerned. Empowering the attorney of the promoters.
- A declaration under Sec. 33(2) in Form No: 1 by an advocate of the Supreme Court or a high court an attorney or pleader entitled to appear

before high court or a chartered account and practicing in India. Who is engaged information of a company or by a person's name in article.

Certificate of Incorporation:

- After filing the requisite document to the registrar, he retains and registers the memorandum, the articles and other documents filled with him and issue a "Certificate of incorporation" (i.e.) of the Formation of company sec.33 (3)
- If there is any minor defect in any document the registrar may ask for its rectification. But if there is a material and substantial defect he may refuse registration.

Commencement of Business:

- A private company may commence its business immediately on incorporation.
- A public company can't commence immediately, unless they obtain certificate of commencement from registrar.
- A company is bound to commence business within a year of its incorporation.

What a Company secretary do?

- Company secretary can do various tasks defined under the scope by ICSI.
- One of the Major tasks. Which is generally performed by company secretaries is e-filing.
- E-filing refers to filling of various documents in the electronic repository of ministry of corporate affairs under the provisions of company act 2013.

Points to keep in Mind:

- Read the relevant provisions of the act and rules.
- Familiarize yourself with practices followed.
- Take a letter of engagement
- Alternative Board Resolution appointing him may be taken.
- Obtain the documents which are required to be filed.
- Ensure the correctness of the documents whether the documents are as per the books and records of the company.
- Ensure that the documents are signed in his presence.
- Scan the documents in the manner so that it is clear and legible for attaching them as attachment.
- Fill up form and attach relevant document to it.

- Get digitally signed by the authorized signatory in his presence.
- Professional should certify the form only after satisfying himself in all respect.

Discrepancies observed:

- Attaching irrelevant documents.
- Attachment not clear and legible
- Documents not signed by the person named as signatory.
- No original signature on documents scanning and copy paste of signatures.
- Misplaced digital signature used.

UNIT-2

CONTENTS

- PROSPECTUS DEFINITION
- OBJECTIVES OF PROSPECTUS
- CONTENTS OF PROSPECTUS
- REGISTRATION OF PROSPECTUS DOCUMENTS TO BE ENCLOSED WITH THE PROSPECTS FOR REGISTRATION
- REFUSAL OF REGISTRATION
- GUIDELINES FRAMED BY SEBI REGARDING ADDITIONAL DISCLOSURES IN PROSPECTUS
- SHELF PROSPECTUS

- RED –HERRING PROSPECTUS
- INFORMATION MEMORANDUM
- MISLEADING PROSPECTUS
- LIABILITIES IN CASE OF MISSTATEMENT IN PROSPECTUS
- CIVIL LES DIVIDED INTO
- ABRIDGED PROSPECTUS

Prospectus:

Issuing a “Prospectus” by which the public is invited to subscribe to the capital of the company through equity shares, debentures and 1 or deposits.

Objectives of Prospectus:

- To inform the public about the forming of a new company.
- To induce the investors to invest in its shares debentures and deposits.

Definition of Prospectus:

A Prospectus is defined under Sec 2(36) of the companies act as “any document described or issued as a prospectus and include any notice, circular, advertisement or other document inviting offers of deposits from the public for subscription or purchase of any shares in or debentures of a body corporate”.

Thus a prospectus means:

- A document
- An invitation to public to invest in shares, deposits and debentures.
- It is widely advertised.

Contents of a Prospectus:

Sec 56 of the matters and reports stated in schedule II to the companies act must be included in a prospectus.

I. General Information:

- Name and address of registered office.
- Name(s) of stock exchanges.
- Declaration about refund of the issue if minimum subscription of 90% is not received within 120 days from the opening of the issued.
- Declaration about the issue of allotment letters / refunds within a period of 10 weeks and interest in case of any refund at the prescribed rate under Sec. 13.
- Date of Opening of the issue.
- Date of Closing of the issue.
- Name and address of auditors and lead managers.
- Whether rating form CRISIL or any rating agency has been obtained for the proposed debentures / shares issue. If no rating has been obtained, this should be answered as "No".

II. Capital structure of the company:

- Authorized issued subscribed and paid up capital.

- Size of the issue, giving separately reservation for preferential allotment to promoters and others.

III. Terms of the Present Issue:

- Terms of payment.
- How to apply.
- Any special tax benefits.

IV. Particulars of the issue:

- Objects
- Projects cost
- Means of financing (including contribution of promoters)

V. Company Management and Project:

- History and main objects and present business of the company.
- Promoters and their background
- Location of the project.
- Collaborations. If any
- Nature of the product (s), export possibilities
- Future prospect
- Stock market date.

VI. Particulars in regard to the company and other listed companies under

Same management:

VII. Outstanding litigations relating to financial matters or any criminal proceedings.

Statutory and other information include information about:

- Minimum subscription
- Expenses of the issues
- Underwriting commission and brokerage.
- Previous Public or rights issue giving Particulars about date of allotment, refunds, premium discount and etc.
- Particulars about purchase of property, if any.
- Issue of shares otherwise than for cash
- Revaluation of assets if any.
- Material contracts and time and place where such document may be inspected.

Registration of Prospectus:

- As per sec 601 of the companies act. 1956 a copy of the prospectus must be filed with the registrar of Companies on or before the date of publication of the prospectus, further.
- The copy sent for registration must be signed.
- Prospectus issued in more than more language a copy should be sent.
- A copy should be delivered for registration.
- The Prospectus must be issued by newspaper.

Documents to be enclosed with the prospects for registration:

The following documents are to be filed along with the prospectus.

- Consent letter from an expert, if any as required under sec58 of the act.
- Copy of any contract appointing and fixing remuneration of M.D. or Manager.
- Copy of other contracts not being a contract entered into in the ordinary course of business carried on or intended to be carried on or a contract entered into more than 2 years before the date of prospectus.
- A statement certified by the auditor stating any adjustment in respect of loses or assets and liabilities and reasons for such adjustment.
- Copies of underwriting agreements.
- Consent letter of auditors, legal auditors, solicitors, bankers, or brokers to act as such.

- Certified copies of power of attorneys given by directors to their agents to sign the prospectus on their behalf.

Refusal of Registration:

As per sec 60(3) of the act, the registrar shall not register a prospectus unless.

- It is dated as provided under sec 55 of the act.
- It contains matters as provided under SC 56 of the act.
- It contains statements or reports of experts engaged or inserted information. Promotion or management of the company as provided under sec. 57 of i.e. Act.
- It includes a statement purporting to be made by an expert without a statement that he has given and not withdrawn his consent.
- It doesn't contain the consent letters in writing of directors
- It is not accompanied by consent letters in writing of directors legal advisers and etc. as provided under sec. 60(3) of the act

Guidelines framed by SEBI regarding additional disclosures in prospectus:

- 1) An index to the contents of the prospectus
- 2) Details of:
 - Actual expenditure incurred on the Project.
 - Means and source of financing such expenditure.

- Year wise breakup of the expenditure proposed to be incurred on the said project.

3) Details of bridge loan or other financial arrangement.

4) The turnover disclosed in the profit or loss statement shall be bifurcated into:

- Turnover of products manufactured by company.
- Turnover of products traded by company.
- Details of products and not normally dealt in by the company.

5) The statement of assets and liability prepared after deducting the amount of revaluation reserve from both fixed assets and reserves and the net worth arrived at after such deduction.

6) The following details in case of companies undertaking major expansion or new projects.

- Technology
- Market
- Competitions
- Managerial Competence
- Capacity builds up.

7) No Projections of future profits shall be made

8) A Statement by the directions.

9) The details of:

- The aggregate shareholding of the promoter group.
- The aggregate no. of securities purchased or sold by the promoter group.
- The maximum and minimum price at which purchases and sales referred to.

Misleading prospectus:

- A prospectus constitutes the basis of the contract between the company and the shareholders and therefore it must disclose all material facts very accurately
- It must not misrepresent or conceal materials facts and thereby improperly influence and mislead the prospective investor into becoming an allot tee of shares and in consequence suffer loss.
- A prospectus containing false. Misleading, ambiguous or fraudulent statement of material facts is termed as “Misleading prospectus”.

Liabilities in case of Misstatement in Prospectus:

- Company
- Directors
- Promoters

- Expert's two types.
- Civil liability
- Criminal Liability

Civil Liability Divided Into:

- Remedies against company
- Remedies against directors, experts and promoters.

SHELF PROSPECTS

- Shelf prospectus means a prospectus issued by any financial institution or bank for one or more issues of the securities or class of securities specified in that prospectus. Who shall file a shelf prospectus?
- Any public financial institution. Public sector bank or scheduled bank whose main object is financing shall file a shelf prospectus.

Red – Herring Prospectus:

A Red – herring – prospectus means a prospectus which doesn't have complete particulars on the price of the securities offered and the quantum of securities offered. Every variation as made and highlighted shall be individually intimated to the person invited to subscribe to the issue of Securities.

Information Memorandum:

- Information memorandum means a process undertaken prior to the filing of a prospectus by which a demand for the securities proposed to be issued by a company is elicited and the price and the terms of issue for such securities is assessed by means of a notice, circular, advertisement or document.
- [Sec. 2 (190)] the concept of information memorandum has been introduced with a view to ascertain the quantum and acceptable price of securities to be offered by a company.

Abridged Prospectus:

Sec 56(3) of the companies act 1956 requires that no one shall issue form of application for shares in or debentures of a company unless the same is accompanied by a memorandum containing salient features of prospectus (more commonly known as abridged form of prospectus) as may prescribed.

UNIT-3**CONTENTS**

- SHARE CAPITAL
- KINDS OF SHARE CAPITAL
- ISSUE OF SHARES

- SHARE WARRANT
- STOCK INVEST
- ALTERATION OF SHARE CAPITAL
- REDUCTION OF SHARECAPITAL
- DEFINITION OF SHARE
- ISSUES OF SHARES
- PROCEDURE OF ISSUE
- KINDS OF SHARES
- SHARE CERTIFICATE
- CONTENTS OF SHARE CERTIFICATE
- DIFFERENCE BETWEEN SHARES AND STOCKS
- UNDERWRITTING MEANING AND DEFINITION
- UNDERWRITERS
- SUB-UNDERWRITERS
- BROKERS
- SUBSCRIPTION AND ADVANTAGES
- TYPES OF UNDERWRITTING
- ALLOTMENT OF SHARES
- IRREGULAR ALLOTMENT

Share Capital:

Share Capital means the Capital raised by the issued of shares. The amount invested by the shareholders toward the face value of shares are collectively

known as share capital which is quite distinct from the capital put by individual shareholders. The share capital is divided as shown below.

- Authorized or Nominal or Registered Capital
- Issued share capital
- Subscribed share capital
- Called up share capital
- Paid – up share capital
- Uncalled capital
- Reserve Capital

Authorized or Nominal or Registered Capital :

- It is that part of the authorized share capital which is offered to the public for subscription. The balance of shares, which is not issued is called unissued share capital.

Subscribed share Capital :

- It is the part of the issued share capital which is actually 'taken' up by the public. The balance of the issued share capital is called unsubscribed share capital.

Called up share capital :

- It is that portion of the subscribed capital which has been called up by the company.

Paid – up Share Capital:

- The portion of the called up capital which is actually paid up the subscriber is called paid up capital.

Uncalled Capital:

- It is hat portion of the subscribed capital which has not been called up by the company.

Unpaid Capital:

- The unpaid balance of the called up capital is known as unpaid capital or calls in arrears.

Reserve Capital :

- This is that part of the uncalled capital which can be called only in the event of winding up of the company is known as reserve capital.

Share Warrant:**UNIT-3****CONTENTS**

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Share Warrant:

A public company limited by shares

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Share Warrant

A public company limited by shares, if authorized by its article may issue share warrant with the prior approval of the central government only fully paid shares can be converted into share warrant.

Stocks invest:

- Stock invest is an instrument issued by banks to solve the problem of delay in refund of excess application money on account of over subscription and to solve the liquidity problem of excess application money. The stick invest is valid for three months.
- It is an additional facility given to the investors for applying public issues apart from the other instruments such as cash, cheque and drafts.

Alternation of share capital:

- Alteration of share capital means alternation of capital clause of the MOA of the company by any of the following means.
- Increase of share Capital by issuing new shares.

- Consolidation or division of all or any of its share capital into shares of larger amount than existing shares.
- Conversion of all or any of its fully paid up share into fully paid up shares of denomination.
- Sub – division of its shares or any of them into shares of smaller amount that is fixed by the memorandum.
- Cancellation of shares which have not been taken or agreed to be taken and diminution of the amount of its share capital by the amount of the shares so cancelled.

Reduction of Share Capital :

Sec 100 of the companies act 1956 provides that a company limited by shares or a company limited by guarantee and having a share capital may. If authorized by its articles, by special resolution and on its confirmation by the court on petition, reduce its share capital in any way in particular.

- By reducing or extinguishing the liability of members in respect of uncalled or unpaid capital.
- By paying off or returning paid up capital not wanted for the purpose of the company.
- By paying off the paid up capital on the footing that it may be called up again so that the liability is not extinguished.

- By writing off or cancelling the capital which has been lost or is unrepresented by the available assets.
- By following a combination of any of the proceeding methods.

Definition of shares :

Section 2(46) of the companies act defines “share” as share in the share capital of company and includes stock except where distinction between share and stock is expressed or implied.

Issue of Shares :

Procedure for Issue :

- Every prospectus must mention the number of shares issued.
- Prospectus must mention the minimum subscription. The minimum amount of share capital is determined to cover.
- The purchase price of any properly purchased or to be purchased.
- Preliminary expenses
- Money borrowed for the foregoing matters
- Working
- Each application for shares must be accompanied by the prescribed application money.
- As application money must be kept intact in a schedule bank.

- If allotment takes place a letter of allotment is sent to the allottees. If no allotment of share is made a letter of regret together with application money is sent to the applicants.
- The allottee has to pay the allotment money on allotment. On the receipt of the allotment money, the company issues share certificate.
- The balance due on shares may be called by the company in installments.

Issue of Equity Shares :

Share may be issued by a joint stock company for the following two different considerations.

- For consideration other than cash
- For cash.

For Consideration other than Cash :

- Issue of shares to the vendors
- Issue of Shares to the promoters
- Issue of Sweod Equity Shares.

Issue of shares for Cash :

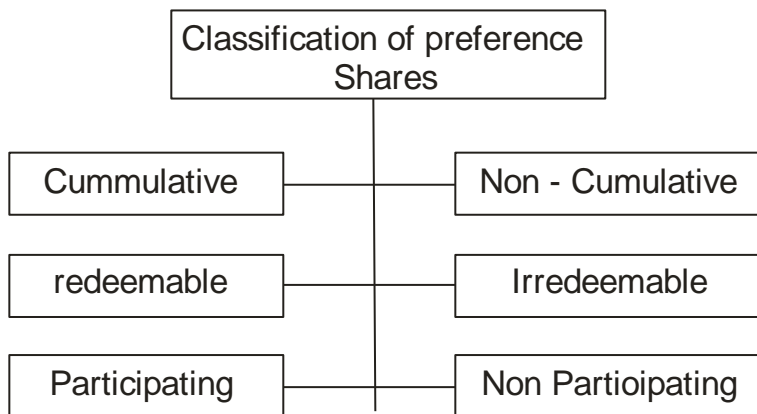
- Issue of shares at par
- Issue of shares at premium
- Issue of Shares at Discount

Kinds of Shares :

- Preference share
- Equity share
- Deferred share

Preference Shares :

- Payment of dividend
- Payment of Capital



Preference share Capital :

- As per sec 85(1) of the act. Preference share capital means that part of the share capital which fulfills both the follow requirements.

- In respect of dividend it carries a preferential right to be paid at a fixed amount at an amount calculated at fixed rate which may be free subject to income tax.
- An respect of capital it carries on winding up or re payment of capital preferential right to be repaid the amount of capital paid up.

Equity Capital share:

- With voting rights.
- With differential rights as to divided voting or otherwise in accordance with such rules and subject to such conditions as may be prescribed.
- Shares which do not have any preferential right in respect of dividend as well as repayment of Capital are known as with “equity shares”.

Sweat equity shares:

As per explanation given to sec 79(a) of the Act, sweat equity share means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know. How or making available rights in the nature of intellectual property rights or value additions by whatever name called.

Deferred Shares:

Only Private Company can issue deferred shares such shares are normally issued to the promoters and directors of the company. It is also known as founder's shares. A public company cannot issue deferred shares.

Share Certificate:

- Share certificate is a certificate issued by the company to the member of the company under the common seal specifying the number of shares held by him and the amount paid on each share. A member of a company has a right to receive a share certificate.
- It is a prima facie evidence of his title to the shares.
- Rule 6 of the companies (issue of share certificates) rules 1960 provides that every share certificate shall be issued under the common seal of the company and shall be signed by two directors or persons authorized by the two directors and the secretary or some other person appointed by the board for the purpose.

Contents of share Certificate :

A share certificate usually contains the following particulars.

- Name of the company
- Address of the registered office of company.
- Date of issue.
- Name of the allottee and transferee
- Certificate number
- No. of shares held
- Distinctive numbers

- Folio no
- Amount paid on the shares.

Types of preference shares :

- Cumulative preference shares
- Non Cumulative preference shares
- Participating preference shares
- Non – participating preference shares
- Convertible preference shares
- Non – convertible preference shares
- Redeemable preference shares
- Irredeemable preference shares

Cumulative preference shares :

- Cumulative preference shares are those in which the arrears of dividend go on accumulating in case the dividends are not paid. Preference shares are always cumulative unless otherwise stated.

Non -Cumulative preference shares :

- Shares in respect of which dividends do not accumulate are called non – cumulative preference shares. The right to claim dividend will lapse if there are no profits to pay dividends in a particular period.

Participating preference shares :

- The holders of these shares are entitled to a share in the surplus profit remaining after paying dividend to the equity share holders in addition to the fixed preference dividend.

Non – Participating preference shares :

- The holders of these shares are entitled to a fixed dividend only.

Convertible preference shares :

- The holders of these shares have a right to convert their preference shares into equity shares within a certain period.

Non - Convertible preference shares :

- The holders of these shares do not have any right to convert their preference shares into equity shares.

Redeemable preference shares :

- Redeemable preference shares are those which can be redeemed after a fixed period.

Irredeemable preference shares :

- Irredeemable preference shares are those which cannot be redeemed during the life time of the company.

Difference between shares and Stock

Shares	Stock
A company can issue direct to the shareholders in its originality	A company cannot make an original issue of stock only shares fully paid up can be converted into stock.
The shares may be fully paid up or partly paid up.	The stock must always be fully paid up.
The shares are always of a fixed denomination	The Stock has no such fixed denomination.
A share has a definite number by which it is distinguished from other shares	The stock has no such number.
Registration of share Capital with the Registration is compulsory before issuing shares.	Stock can be issued only after passing ordinary resolution if Articles permit, and after passing a special resolution in case the Articles so do not permit and filing a notice of conversion with the Register.
A Share can be transferred in its entirety or in its multiple only.	Stock is divisible into any amount required and as such may be transferred even in Fractional amount.

Underwriting – Meaning :

- Underwriting is a contract between company and underwriters. They may be individuals or institutions. Ready to take up the whole or a portion of the shares or debenture issued. Which are not subscribed for by the public for a consideration called underwriting commission.

Underwriting – Definition :

Institute of Company secretaries of India.

- Underwriting may be defined as a contract entered into by the company with persons or institutions called under writers or a portion of such of the offered shares or debentures as may not be subscribed for by the public in consideration of remuneration called underwriting commission.

Underwriters :

- Underwriters is a person or institution that guarantees or agrees to take up the shares or debentures of a company which are not subscribed for the public.

Sub – underwriters :

- If an underwriter himself enters into a sub – agreement with other persons, he is called a sub – under writers.
- The under writer gets a small commission called overriding commission on the shares under written by the sub – under writer.

Brokers :

Broker is a person who procures the subscription for the shares and debentures of a company from the public without any commitment or responsibility. He is eligible for a remuneration called brokerage. The brokerage

applicable to all types of public issues of corporate securities is fixed at 1.5 % of the issue value.

Advantages of underwriting :

- It acts as a sort of guarantee against the danger of not receiving minimum.

Subscription:

- It provides assurance to a company for the definite receipt of stipulated amount of a public issue.
- It enables the company to go ahead with its investment programme.
- It enables the smooth functioning of capital market.

Advantages of Sub – underwriting :

- The underwriter transfers a part of his underwriting risk.
- It helps in transferring the risk.

Managers to the Issue:

- The companies are free to appoint one or more agencies as managers to the issue. The aggregate amount payable as fees to the issue manager shall not exceed the following limit.
- For issue up to Rs.5 crores -0.5%.
- For issue above Rs.5 crores -0.2% such fees shall not be paid in respect of the following.

- Amounts agreed to be taken by the financial institution as investor / underwriter.
- Promoters quota of capital.
- Amounts subscribed on right basis.

Underwriting commission:

- It is the consideration payable to the Underwrites for underwriting the shares or debentures of a company.

Payment of underwriting commission:

- This commission is payable at a specified rate on the issue price of the shares or debentures underwritten. Sec 117 of the companies Act 1956 lays down the following relating to payment of the commission.
- The articles must authorize the payment of the commission.
- The commission should not exceed 5% of the issue price of share or the rate authorized by the Articles. Whichever is less. In case of debentures the commission should not exceed 2.5% of the issue price of the rate authorized by the articles. Whichever is less.
- The commission agreed to be paid should be disclosed in the prospectus.
- The commission payable on shares or debentures offered to the general public only. No underwriting commission can be paid if the issue is privately placed.

Types of underwriting:

- Full underwriting.
- Partial underwriting.
- Firm underwriting.

Full underwriting:

- The underwriting of the whole issue of shares or debentures of a company is called full underwriting.

Partial underwriting:

- The underwriting of a part of the issue of shares or debentures of a company is called partial underwriting.

Firm underwriting:

- The agreement of an underwriter to buy a definite number of shares or debentures in addition to the shares or debentures he has to take under the underwriting agreement is called firm underwriting.

Allotment of Shares :

- The application for shares by intending shareholders is an offer for the purchase of shares and when accepted by the company is known as an allotment of shares.
- A valid allotment must be made in accordance with provision of the companies act 2013, and the Indian contract Act 1972.
- General provisions

- Special provisions

General Provisions:

- Allotment must be made by proper authority.
- Allotment must be made within reasonable time.
- Allotment must be communicated
- Allotment must be absolute and unconditional.

Special Provisions :

- Registration and issue of prospectus
- Minimum subscription
- Application money
- Application money to be deposited in a scheduled bank
- Refund of application money in specification
- Opening of subscription list.
- Prospectus to be delivered to the Registrar.

Compulsory listing of all public issues :

- It has been made compulsory for every public company, which makes an issue to the public to arrange with one or more recognized stock exchanges to list its shares.

Irregular Allotment :

An allotment made by a public company will be considered an irregular allotment under the following grounds.

- When allotment made without receiving at least five.
- When allotment is made without depositing the application money in a scheduled bank.

UNIT-IV

CONTENTS

- ❖ **MEANING OF SECRETARY**
- ❖ **DEFINITION OF SECRETARY**
- ❖ **IMPORTANCE OF SECRETARY**
- ❖ **TYPES OF SECRETARY**
- ❖ **FUNCTION OF SECRETARY COOPERATIVE SOCIETY**
- ❖ **COMPANY SECRETARY DEFINITION**
- ❖ **COMPANY SECRETARY QUALIFICATION**
- ❖ **PROCEDURE FOR APPOINTMENT OF COMPANY SECRETARY;**
- ❖ **POWERS AND RIGHTS OF THE SECRETARY**
- ❖ **COMPANY SECRETARY LIABILITIES**

Meaning of secretary:

- The word secretary is derived from a Latin word ' Secretarius ' which means ' Confidential Officer'. As a confidential officer he has to maintain

the secrecy of the work entrusted to him. The title 'Secretary' used to indicate officers conducting confidential correspondence for kings and high dignitaries.

Definition of secretary:

- The most common definition of "Secretary is one who assists an executive in carrying out the details of his work"
- The term secretary is defined in oxford

Dictionary as follows:

- "One whose office it is to write for another especially one who is employed to conduct correspondence, to keep records and transom various other businesses for another person or for a society, corporation or public body".

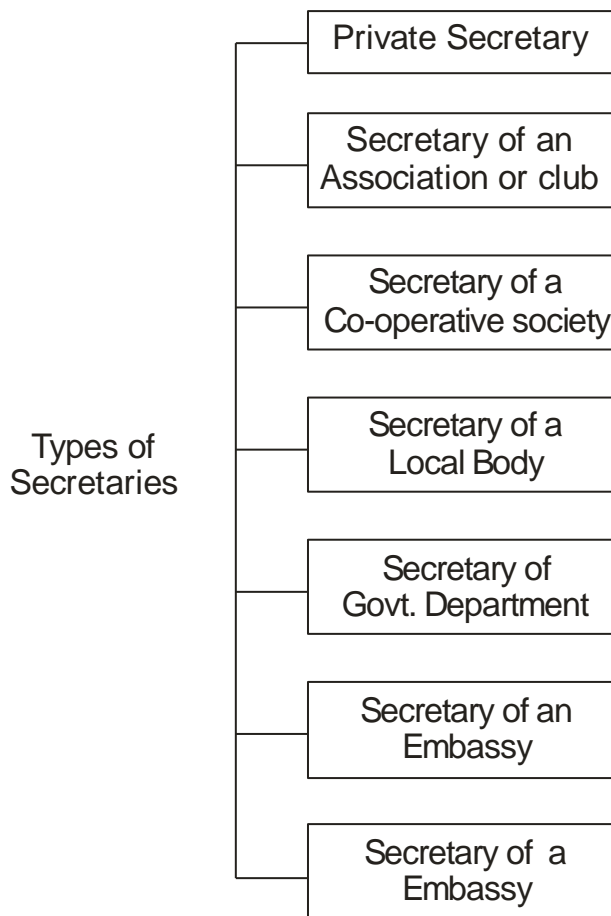
Importance of secretary:

- The secretary occupies a significant place in societies.
- He is almost an indispensable person in industry, commerce and other social institutions.
- A secretary undertakes an important task of carrying out day routine activities of the society.
- The functions of a secretary differ with every organization to which he is attached.
- The role of a secretary in the business world is to share the burden of top management.

- The largest groups of secretaries are those connected with the Joint stock companies. The secretary of Joint stock companies assumes the responsibility of compliance with various provisions of the company law and other laws applicable to the organization

Types of secretaries:

There are several types of secretaries employed in different organizations. A brief description of some of the principal types of secretaries and their functions are given below.



1. Private Secretary :

- Persons holding key positions in an organization, important persons having tight work schedule. Such as ministers member of parliament, administrative officer and professionals like lawyers. Do close etc., use to appoint an individual as a personal secretary to conduct correspondence and do other personal work on their behalf.

Functions of Private Secretary:

- Routine office duties.
- Receptionist's duties
- Duties of Private nature

Routine Office – Duties:

- Handling mail.
- Conducting routine correspondence
- Taking shorthand dictation and typing
- Filing and indexing of letters and maintenance of records.

Receptionist's duties:

- Handling telephone calls and visitors.
- Making and recording appointments and engagements of employer.

Duties of Private nature:

- Drafting reports and speeches.
- Handling bank transactions
- Paying bills.
- Arranging tours, travels and parties
- Arranging for meetings.

2. Secretary of an Association or club:

Secretaries of associations. Sports clubs, professional and business associations. Trade unions and similar bodies come under this category.

Functions of secretary of an Association or club:

The secretary of an association generally performs the following functions.

a) As an executive officer he undertakes administrative functions such as:

- Supervision of the staff
- Correspondence
- Maintenance of records and accounts
- Receipt and payments of cash
- Preparing statement of accounts and arranging audit.

b) As the chief officer, he supervises and conducts the activities of club or association such as:

- Registration of new members

- Collection of subscription and donation
- Purchase and maintenance of equipment
- Arrangement for parties and social gatherings.

c) As a convener for meeting he answers the following duties:

- Convening and holding of meetings of the general body and management committee.
- Issue of notices and agenda
- Ensuring proper seating arrangements
- Preparation of documents to be placed before the meeting.
- Recording of proceedings, circulation of minutes etc.

d) As an agent of the association:

- He acts as mouth piece of the managing committee
- Executes the decisions of the committee
- Acts as public relations, officer and issues press statements, notifications etc.,

e) As an advisor of the managing committee:

- Advises the committee on matters relating to framing.
- Suggests actions to be taken for violation of rules, legal matters etc.

3) Secretary of a Co-operative society:

- The Secretary of a Co-operative society may be appointed as a paid secretary or elected from among the members of the managing committee. Large societies generally appoint full – time secretaries.

Functions of secretary of a Co-operative society:

The main function of the secretary of a Co-operative society is to manage the affairs of the society under the control and direction of the managing committee. He performs more or less the same duties as the secretary of an association, besides; he performs the following functions also:

- Maintaining proper records and registers in accordance with the rules framed by the government.
- Submission of periodical statements and returns to the Registrar or Co-operative societies.
- Communication with members
- Defending and conducting lawsuits
- Attending conferences
- Investigation of matters entrusted to him.

4) Secretary of Local body:

- Law relating to public bodies (Municipal Corporation, Panchayats etc.,) usually provide for the appointment of a paid secretary to look after their day to day affairs.

Functions of secretary of Local body:

His primary function is that of an office executive. His functions include, to:

- Coordinate and supervise all office activities.
- To take care of the mail
- Maintenance of records
- Prepare budget estimate statement of accounts, annual reports etc.
- Issue notices of meetings prepare agenda and draft minutes
- Make enquiry on particular matters and report to the local body.
- Undertake special duties which may be entrusted to him.

5) Secretary of Government Department:

The Civil servants attached to the various ministries of the Government and acting as their executive heads are known as secretaries.

E.g. : Secretary, Ministry of home affairs or secretary, Department of company affairs etc.

Functions of Secretary of Government Department Administrative and Executive Functions:

These include:

- Overall control and day to day administration of the office.

- Issuing directions, orders and circulars for the guidance of officers and clerical staff.
- Conducting and supervising activities in execution of the normal functions of the department.
- Co-ordinating the activities of the department with those of allied departments.
- Supervising the collection of data for policy decisions.
- Conducting and supervising investigation into special projects, schemes or proposals etc.

6) Secretary of an Embassy:

- The secretary of an Embassy or high commission or a diplomatic mission ranks next to the ambassador or high commissioner and acts as head of the establishment in the absence of the ambassador.

Functions of Secretary of an Embassy:

- He looks after the secretarial functions of the establishment.
- His job is highly responsible and of a confidential nature.
- He renders useful advice to the head of the establishment on matters protecting the interests of his country and its citizens.

7) Secretary of a company:

Section 2(24) of the companies act 2013 says the “Secretary means a company secretary as defined in section 2(1)(c) of the companies secretaries Act. 1980 who is appointed by a company to perform the functions of a company secretary under this act. Section 2(1)(c) of the companies secretaries act defines a company secretary as a person who is a member of the Institute of company secretaries of India.

Company secretary definition:

According to section 2(24) of the companies act 2013, “Company secretary” or secretary means of company secretary as defined in section (1) (c) of the company secretaries act 1980, who is appointed by a company to perform the functions of a company secretary under this act. **Company Secretary:**

A company secretary is a senior position in a Private such Company, a Company Secretary is typically named a corporation secretary or secretary. The Company secretary is responsible for the efficient administration of a company.

1) Qualification of Company Sectors:

- Educational qualification of company secretary.
- A Company secretary has to deal with people of name and fame. So must have higher education of better understanding.
- The represents the company to the outside world and therefore he should have language proficiency to be will Environment.
- He should be updated with wide general knowledge relevant to must the company activities.

2) Professional qualification of company secretary:

- Company secretaries require specialized knowledge on sectorial Practical to dial with notice, agenda, and resolution minutes of a waiting.
- A company secretary must have sufficient knowledge on company act, industrial and commercial law and law of income tax. Stamp act and Exchange of dial with legal and statutory affairs.
- A company secretary show have better understanding about money and capital market foreign exchange and social economic condition to dial a with trading and financing.
- He requires proper knowledge to work with computer for document preservation and future use of data or information.
- To maintain good relation with all state holders a company secretary should have knowledge of human relation.

3) Personal qualities of company secretary:

A company secretary is a high profile officer and there for we should be a person to have below quantities.

- Honesty and in training
- Loyalty and country
- Punctuality
- Sincere of discipline and responsibility

- Factfulness and containers
- Professional minded

Procedure for appointment of company secretary;

- ✓ Advertise the post, collect applications, hold interview, short list the individuals for the position, finalize the term of appointment.
- ✓ Convene a board meeting and place the proposal of appointing company secretary with the details of the person finalized and pass the resolution.
- ✓ File E-form 32 within thirty days from the date of appointment with the register of companies together with the required filing fees.
- ✓ Obtain the details of the offices held by such individuals as directors or otherwise in other companies.
- ✓ Make entries in the register of directors under section 303 of the act.
- ✓ Inform to the stock exchanges where the company is listed.
- ✓ Pass a board resolution for appointment of company secretary.
- ✓ Receive consent from company secretary to act as company secretary.
- ✓ Details of company secretary must be recorded in the register of key managerial personnel.

Powers and rights of the secretary;

- ❖ Right to control and supervise
- ❖ Right as a principal officer
- ❖ Right to claim salary
- ❖ Right to issue certificate

- ❖ Right to contract on company's behalf
- ❖ Right to represent the company
- ❖ Other rights.

Company secretary liabilities;

- The company secretary may be held liable for
- Under the income tax act, the company secretary is liable for
- Under the stamp act, the company secretary is liable for
- Under the sales tax act, the company secretary is liable for
- Under the Registration Act, the company secretary is liable for

UNITS -V

CONTENTS

- **POWERS OF A COMPANY TO BORROW MONEY**
- **FORMS OF BORROWINGS**
- **DEBENTURES**
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➤ **ACCEPTANCE OF DEPOSITS :**

➤ **SECRETARIAL DUTIES**

Powers of a company to borrow money:

- A company is deemed to have powers to borrow money, or to issue debentures.
- It is not necessary to include specific provisions in Memorandum.
- A Public company cannot borrow money until it obtains certificate of commencement of business.
- Directors of a company have power to borrow money after passing resolution in their meeting.
- Company can restrict their power to borrow money by mentioning that borrowing exceeding a certain amount can be made only with prior approval of members in general meeting.

Forms of Borrowings:

- Issuance of debentures.
- Loan from Financial institutions (banks and other non – banking financial institutions)
- Borrowings from other sources (e.g. from controlling shareholders, directors, sponsors)

Debentures:

- Securities issued to borrow money are called debentures.
- Bonds, term finance certificate or any other instrument of a company evidencing a debt.
- Whether constituting a mortgage or charge on the assets of the company or not.

Characteristics of Debentures:

- Debentures often carry fixed interest. However, a company can issue debentures not based on interest which participate in the profits of company.
- Debentures do not carry voting rights in general meeting.
- Debentures may be redeemable or irredeemable.
- Debentures may be secured or unsecured.

Kinds of debentures

The debentures can be classified as follows;

Registered Debentures:

These debentures are registered with the company. The amount of such debentures is payable only to those debenture holders whose name appears in the register of the company.

Bearer Debentures:

These debentures are not recorded in a register of the company. Such debentures are transferable merely by delivery. Holder of bearer debentures is entitled to get the interest.

Secured or Mortgage Debentures:

These debentures are secured by a charge on the assets of the company. These are also called mortgage debentures. The holders of secured debentures have the right to recover their principal amount with the unpaid amount of interest on such debentures out of the assets Mortgage by the company.

Unsecured Debentures:

Debentures which do not carry any security with regard to the Principal amount or unpaid interest are unsecured debentures. These are also called simple debentures.

Redeemable Debentures:

These debentures are issued for a fixed period. The Principal amount of such debentures is paid off to the holders on the expiry of such period. These debentures can be redeemed by annual drawings or by purchasing from the open market.

Non – redeemable Debentures:

These debentures are not redeemed in the lifetime of the company. Such debentures are paid back only when the company goes into liquidation.

Convertible Debentures:

These debentures can be converted into shares of the company on the expiry of pre-decided period. The terms and conditions of conversion are generally announced at the time of issue of debentures.

Non – convertible Debenture:

The holders of such debentures cannot convert their debentures into the shares of the company.

First Debentures:

These debentures are redeemed before other debentures.

Second Debentures:

These debentures are redeemed after the redemption of first debenture.

Acceptance of Deposits:

- Deposits include any receipt of money by way of deposits or loan or in any other form by a company but does not include such categories of amount as may be prescribed in consultation with the Reserve Bank of India.

Depositor means the following person:

- Any member of the company who has made the deposit with the company in accordance with the provision of section 73(2) of the act.
- Any person who has made a deposit with a public company in accordance with the provisions of section 76 of the act.

Acceptance of deposits from members only:

1. Special resolution
2. Acceptance in accordance with the rules
3. Deposits on conditions agreed between the members and company
4. Compiling with conditions requirements.

Assignment:

- Explain provisions regarding issue of debentures
- Remedies of debenture holders
- Explain deposit and depositor

Depositor means the following person:

- Any member of the company who has made the deposit with the company in accordance with the provision of section 73(2) of the act.
- Any person who has made a deposit with a public company in accordance with the provisions of section 76 of the act.

Secretarial duties

1) Statutory duties:

The secretary is to comply with the various legal requirements imposed on a company under the company act a company is to prepare and file documents notice of association prospectus or statement in lieu of prospectus annual list of members etc.

2) Duties to Management:

The Secretary act under the direct control and guidance of the board of directors. In the eyes of law, he is a servant of the directors are called the brains of the company, the secretary may be said to be its ears and hands.

3) Duties of Shareholders:

The Shareholders are the real owner of the company and the secretary should show them proper courtesy and give their problems careful consideration between the directors (the brains of the company) and the shareholders (the owners of the company).

4) Duties to the Public:

A company secretary is the medium of communication between the directors of the company, and the third party including the creditor and debenture holders of the company. In the matter of public interest, he must not discriminate while disclosing any confidential information.

5) Duties in Relation to organization of the office:

The secretary has a number of department under him, besides secretarial department, shares department, filing, records and correspondence department, accounts department, etc., remain under his control.

6) Miscellaneous duties:

The secretary is also required to perform several routine duties. These include attending to legal, social and economic matters pertaining to the company. He has to arrange for meetings various types. His duties in this regard are in three stages, before the meeting at the meeting and after the meeting.