

TWO marks questions

Q:-① Give the meaning of joint stock company?

Ans; Joint Stock company refers to a company having a joint stock. OR Capital that is divided into units of ownership interest, such as shares which may be transferred without consent of the other share holders.

Q:-② State any two features of joint stock company.

Ans; - Features of joint stock company are -

1) An Artificial person.

2) common seal.

Q:-③ State any two advantages of joint stock company

Ans; Advantages of joint stock company are

1) Shareholders' liability is Ltd. to face value of the shares held by them.

2) A company has a long and stable life.

3) A company can collect huge capital for the business.

Q:-④ Mention any two dis-advantages of company?

Ans; Dis-advantages of joint stock company are

① lack of flexibility -

② no-business secrecy.

③ delay in decision making.

Q:-⑤ What do you mean by one person company.

Ans; one person company means a company which has only one member, otherwise one person company as a private co. for all the legal purposes with only one member.

Q:-⑥ What is private company?

Ans; Private company is a type of co. that offers limited liability to its shareholders but that places certain restrictions on its ownership. These restrictions are spelled out in the company's Act and are meant to prevent any hostile take-over attempt.

Q: (7) What is public company?

Ans: A public ltd company is a company whose securities are traded on a stock exchange and can be bought and sold by anyone. Public co. are strictly regulated and are required by law to publish their complete and true financial position so that investors can determine the true worth of its shares.

OR

A public limited co. is formed by a minimum of seven and above people, who make financial contribution to the business and are limited by the monetary value of the shares they hold. Public Ltd Co. has a larger number of shareholder compared to private limited co.

Q: (8) State two advantages of private limited company -

Ans: Advantages of private ltd co. are

- ① Shareholders are only limited by the value of the shares they hold
- ② the company enjoys some privacy as its books of accounts are not made public.

Q: (9) State two disadvantages of private ltd co.

Ans: Disadvantages of private ltd co. are

- ① The starting up and running of a private ltd company requires huge capital.
- ② Shareholders can not transfer his share without the approval of other shareholders of the co.

Q: State any two advantages of public ltd co.

Ans: Advantages of public ltd co. are

- ① Shareholders are only limited by the value of the shares they hold
- ② Shareholders can receive dividends.

Q: State any two disadvantages of public ltd co.

Ans: Disadvantages are

- ① The requirement for setting up a public limited liability co. are very difficult.
- ② Decision making is usually very slow.

Q: What is holding company?

Ans: A holding co. refers to a co. which does not produce, goods or services itself; rather, its purpose is to own shares of other companies. Holding companies allow the reduction of risk for the owners and can allow the ownership and control of a number of different companies.

In other words it is a company which controls another company by holding a minimum 51% of shares and thereby controlling the composition of the board of the company.

Q: What do you mean by subsidiary company?

Ans: A company which another company holds a minimum of 51% of share capital. i.e. holding co. is known as subsidiary company. As long as the parent company has more than 50% of the voting stocks in the subsidiary it has control.

Q: What is Govt company?

Ans: A Govt co. means any co. in which not less than 51% of the paid-up share capital is held by the central Govt and or by any state Govt or partly by the central Govt and partly by one or more state Govt. Such co. have to follow all provisions of the Indian Companies Act 1956.

Q: What is certificate of incorporation?

Ans: Certificate of incorporation is the legal document which makes the company formation valid or brings the company into existence.

Q: What is e-filing?

Ans: Electronic filing or e-filing allows authorized users to file documents with five different Govt. authorities directly from a computer using the internet.

Q: Mention the stages of formation of a company. (4)

Ans: The various stages of formation of a company are

- (1) promotion stage
- (2) incorporation stage
- (3) capital subscription stage.
- (4) commencement stage.

Q: What do you mean by Articles of Association?

Ans: Articles of Association is a document that specifies the regulations for a company's operations. The articles of association define the company's purpose and lays out how tasks are to be accomplished within the organisation, including the process for appointing ~~and~~ directors and how financial records will be handled.

Q: What are the objectives of prospectus?

Ans: Objectives of prospectus are stated below.

- 1) It informs the company about the information of a new company
- 2) It serves as written evidence about the terms and conditions of issue of shares or debentures of a company.

Q: Give the meaning of preference of shares.

Ans: Preference shares are shares, which have preferential rights in respect of payment of dividend during existence of the company and also in respect of repayment of share capital in the event of the winding up of the company.

Q: What is Secretary by the trade union?

Ans: Generally, every trade union appoints a secretary. He is powerful person wielding much influence over the organised labourers. He is required to hold meetings of the union, to record their proceedings to maintain its statutory books and to conduct the correspondence on behalf of union. He advises the union on various matters.

Q: Who is resident Director?

Ans: As per company Act 2013 Section 149(3), Every company to have at least one Director who has stayed in India for a total period of not less than 182 days in the previous calendar year. Such Directors are known as Resident Directors.

Q: What do you mean by meeting?

Ans: Every company conduct Annual General meeting, every year in meeting they must discussed and decided company subject, matter relating to company such as Annual A/c, Director's report, Auditor's reports, Declaration of Dividend etc.

Q: What is Extra-ordinary General meeting?

Ans: In addition to, the other meeting E.G.M. conducted by the Board of Directors for urgent business which can not wait to be decided till the next Annual General meeting it special meeting, such meeting is known as E.G.M.

Q: What is winding up?

Ans: Winding up means to close down the business, the process of selling all the business assets, paying off all liabilities and distributing any remaining balance to parent company.

Q: Give the meaning of the memorandum of association

Ans: Memorandum Association is document that regulates a company's external activities and must be drawn upon the formation of a registered or incorporated company. The M/A. gives the company's name, name of its share holders and number of shares held by them. and location of its registered office.

Q: Define prospectus.

Ans: Under the company Act, a prospectus has been defined as "Any document described as prospectus includes any notice circular, advertisement or other document, inviting deposits from the public for the subscription or purchase of shares or debentures of a company or body corporate".

Q: What is book building?

Ans:- Book building refers to the process of generating, capturing and recording investor demand for shares during ~~an initial public offering (IPO)~~ or other securities during their issuance process in order to support efficient price discovery. The issuer appoints a major investment bank to act as a major securities underwriter or book runner.

OR

In simple words, Book building is the process by which an underwriter attempts to determine at what price to offer an IPO based on demand from institutional investors.

Q: Give the meaning of equity shares.

Ans:- Equity shares refer to the stock or capital stock of business entity which represents the original capital paid into or invested in the business by its founders. It serves as a security for creditors of business since it cannot be withdrawn to the detriment of the creditor.

Q: What is Secretary by the local body?

Ans:- Generally, municipal corporations and panchayats appoint a paid secretary who will function as an officer executive. He is a link between the authorities and staff. His functions are many and varied. He has to supervise the corporate activities of the office, prepare budgets, statements, arranging meeting, draft minutes etc.

Q: Who is an independent director?

Ans: Based on a request made by various stakeholders, the ministry of corporate affairs, A director may be appointed for the term of less than 5 years although that he would be considered a full term for the purpose of computing the maximum two terms permissible for independent directors.

Q: Who is proxy?

Ans: where a Shareholder is not able to attend a meeting, he can depute another person to attend the meeting on his behalf. The member is required to filling a form giving the particular of his shareholding and of the proxy. proxy forms are to be deposited with the company sufficiently in advance, before the commencement of the meeting. The proxies have restricted rights and are not to be counted for quorum.

Q: What do you mean by A.G.M.?

Ans: Any company can conduct Annual General Meeting every year. that official bodies, and associations involving the public including companies with shareholders, are often required by law. An annual General meeting is called by the directors of a company that allows shareholders to stay informed and involved with company decisions and workings.

Q: What do you mean by postal ballot?

Ans: postal ballot means voting by post or through electronic means with a period of 30 days from the date of dispatch of the notice.

Q: What is e-voting?

Ans: Electronic voting is a term encircling several different types of voting, implementing both electronic means of casting a vote and electronic means of counting votes.

Q: What do you mean by auditor?

Ans: An auditor is an official whose job is carefully check the accuracy of business records. An auditor can be either an independent auditor unaffiliated with the company being audited or a company can appoint qualified auditors to look after financial transaction of the company.

Five marks questions :

(8)

Q:- What are features of a company?

Ans:- Following are the features of joint stock company.

- 1) Artificial person.
- 2) common-seal.
- 3) compulsory incorporation.
- 4) perpetual succession.
- 5) limited liability.
- 6) Share Capital.

7) Separation of ownership and management.

- 8) Legal Entity.
- 9) Large membership.

Let us explain in brief one by one.

- 1) Artificial person: A company is an artificial person created by law. It is created by legal process and not by natural birth. Even though it has no natural personality, it has legal personality.
- 2) common seal: The common-seal can serve as its signature. The common-seal is affixed on all important documents and contracts which is witnessed by signature of two directors and counter-signed by Secretary where ever required.
- 3) compulsory incorporation: A company is a voluntary association of persons formed and incorporated under the existing company law.
- 4) perpetual succession: Since the company has a separate existence from its members, Directors and employees, their death, insolvency or insanity will not affect its life and existence. Men may come and men may go but a company remains forever.
- 5) Limited liability: usually the liability of member is limited to the extent of uncalled or unpaid value of shares held by them.
- 6) Share Capital: the capital required by the company is raised by issues shares. A share is a share in the share capital of the company.

7) Separation of ownership and management :-

(9)

In company organisation the ownership and management are separated. The Shareholders who are the owners do not take active part of the everyday affairs of the company.

8) Legal Entity: Since the company created by law it has separate legal existence compared to its members.

9) Large membership: The company is owned by a large number of members - maximum of 200 in case of private Ltd. Co. and unlimited members in case of public Ltd. Co.

Q: Explain in detail one person company.

Ans- Meaning of one person company : One person company means a company which has only one member.

Concept of one person company

It shall also be important to note that section 3 classifies one person company as private company for all the legal purpose with only one member. All the provisions related to the private company are applicable to an O.P.C. unless otherwise expressly excluded.

Formation of one person company

An O.P.C. is incorporated as a private limited company; where there is only one members and prohibition in regard to invitation to the public for subscription of the securities of the company.

Special feature of O.P.C.

Mainly two features -

- i) An O.P.C. can be formed under any of below categories.
 - a) Co. Ltd by guarantee.
 - b) Co. Ltd by shares.
- ii) An O.P.C. Ltd by shares shall company with following requirements:
 - a) Shall have minimum paid up Capital of 1 Lakh.
 - b) Restricts the right to transfer its shares.
 - c) Prohibits any invitation to public to subscribe for securities of the co.

Q:- Explain the clause of memorandum of association.

(10)

Ans:- meaning of M/A:

memorandum of association is the first document that relates to company's external activities and must be drawn up on the formation of a registered or incorporated company. the M/A gives the company's name, names of its members and number of shares held by them and location of its registered office.

clauses of the memorandum of association:

memorandum of Association normally contains the following are the clauses.

- 1) Name clause: It contains the name by which the company will be established. As you know, the approval of the proposed name is taken in advance from the Registrar of the companies.
- 2) Situation clause: It contains the name of the state in which the registered office of the company is or will be situated. The exact address of the company's registered office may be communicated within 30 days of its incorporation to the Registrar of companies.
- 3) Objects clause: It contains detailed description of the objects and rights of the company, for which it is being established. A co. can undertake only those activities which are mentioned in the objects clause of its memorandum.
- 4) Liability clause: It contains financial limit up to which the shareholders are liable to pay off to the outsiders on the event of the co. being dissolved.
- 5) Capital clause: It contains the proposed authorised capital of the company. It gives the classification of the authorised capital into various types of shares.
- 6) Subscription clause: It contains the name and address of at least 2 or more members in case of public ltd company and two members in case of private ltd co. who agree to associate or join hands to get the under taken of registered as a company.

Q:- Explain the scenario for book building-

(11)

Ans:- The abolition of the Capital Issue Control Act - 1947 has brought a new era in the primary capital markets in India. Control over the pricing of the issues, designing and tenure of the capital issues were abolished. The issuers at present, are free to make the price of the issue.

Before establishment of SEBI in 1992, the quality of disclosures in the offer document was very poor.

SEBI has also formulated and prescribed stringent disclosure norms in conformity to global standard.

The main drawbacks of pre pricing was the process of pricing of issues. The issue price was determined around 60-70 days before the opening of the issue and the issuer had no clear idea about the market perception of the price determined. The traditional fixed price method of tapping individual investors suffered many defects such as

1) delays in the IPO process and 2) under pricing of issues.

Thus it is required to find out a new mechanism for fair price discovery and to help the least informed investors. That's why, Book Building mechanism, a new process of price discovery, has been introduced to overcome its limitation and to determine issue price effectively.

Q:- State the disqualifications of a director.

Ans:- Dir. Qualifications of a directors as per section-274

of the Act, the following persons are not eligible for being appointed as directors of any company.

- 1) A person found by the court to be unsound
- 2) An under charged insolvent
- 3) A person who has applied to be adjudged an insolvent
- 4) A person who has been convicted of an offence involving moral turpitude or sentenced to imprisonment for not less than six months and period of five years has not elapsed from the date of expiry of the sentence.

(C.P.T.O.)

- ⑤ A person who has failed to pay calls for six months from the date when the calls fell due.
- ⑥ A person who has been disqualifed by an order of the court to act as director of a company on the ground of fraud or misfeasance in connection with another company.

Q: What are advantages of a company?

Ans. The advantages of a company are:

- 1) Limited liability → shareholder's liability is limited -
- 2) continuity and stability → a co. has long and stable life.
- 3) professional management → the co. appoints experienced managers
- 4) Large capital → a co. can collect huge capital - for the business
- 5) Economics of scale → As the co. operates on a large scale it enjoys
- 6) Bargaining power → compared to other forms a co. has large bargaining power
- 7) Legal status → a co. has separate legal entity.
- 8) Large membership → a co. has large membership - to purchase shares.
- 9) Transferability of shares → shares can freely transfer
- 10) Employment → large number persons can appoint.
- 11) Govt. Revenue → the co. provide large amount of revenue.
- 12) Research and Development → co. can undertake R&D.
- 13) Economic development → co. having around development of Economy and Industry.

Q: Discuss the contents of Articles of Association.

Ans: The contents of Articles of Associations are as follows-

- 1) Share capital, rights of shareholders, variations of these rights, payment of undivided commission.
- 2) Liens on shares
- 3) Calls on shares
- 4) Transfer of shares
- 5) Transmission of shares
- 6) Forfeiture of shares
- 7) Conversion of shares into stocks.
- 8) General meeting and proceedings thereof.
- 9) Directors, their appointment, remuneration, qualification powers,
- 10) Dividend and Reserves.
- 11) Accounts, audit and borrowings powers.
- 12) Capitalization of profit.

Q: Explain different types of secretaries?

(13)

Ans: There are various types of secretaries such as

- 1) Private Secretary: A private secretary is usually appointed by an important person such as a minister in the govt. member of parliament, manager, business magnate, or professional men like doctors, lawyers etc.
- 2) Secretary of a club or association non-profit making Association like charitable institution, cultural association and professional association, sports and athletic clubs may appoint a full time secretary to conduct the day-to-day activities of the association or club.
- 3) Secretary of a co-operative society. Generally, fulltime secretaries are appointed for co-operative society. In some cases, one of the members of the managing committee may be elected to act as secretary
- 4) Secretary of Govt Department
Each Dept. of the Govt. is undertaken under ^{the} control of a Secretary. For example - Secretary Finance, Dept. Education Dept. Secretary.
- 5) Secretary of Local Body: normally municipal corporation and panchayats appoint a paid secretary who will look after as an office executive.
- 6) Secretary of Trade Union: Generally, every trade union appoints a secretary. He is a powerful person and he is required hold meeting of the union and maintains record of trade unions.

Q: What are the requisites of a valid meeting.

(14)

Ans: following conditions must be satisfied for a meeting to be called valid meeting

① proper authority: The proper authority to convene a general meeting of a company is Board of Directors who should pass a resolution to call the meeting.

② Notice of meetings- proper notice of the meeting should be given to the member by giving at least 21 days notice in writing to the members.

③ Quorum of meeting :- The quorum is generally fixed by the Articles. Quorum means the minimum number of member who must be present in order to conduct meeting and transact business thereof. If quorum is not present there is no meeting held.

④ Chairman of meeting :- A chairman is necessary to conduct meeting

⑤ Mindes of meeting :- Every company must keep a record of all proceedings of every meeting

Q: Explain the various steps in formation of joint stock company.

Ans. The various steps in formation of a joint stock company are

- 1) promotion stage
- 2) incorporation "
- 3) capital subscription stage
- 4) Business commencement "

Let us explain in brief.

1) promotion stage: In this stage some important points to be considered i.e.

- 1) Idea about Business
- 2) Investigation.
- 3) Assembling various factors
- 4) Financial sources
- 5) Preparation of essential documents.

2) Incorporation stage: In this stage also some points to be taken into consideration i.e.

- 1) Filing of Documents a) memorandum of association
- b) Articles of Association c) list of Directors, d) written consent of Directors, e) Declaration of Qualified Shares f) prospectus
- g) Statutory declaration.
- 2) payment of registration fees
- 3) certificate of incorporation.

3) Subscription stage:

- i) By issuing shares
- ii) By issuing debentures.
- iii) By savings.

4) commencement stage under this stage

- 1) To issue prospectus.
- 2) Allotment of shares
- 3) minimum subscription.

Note- By taking all these above points you have to explain in detail, I am not explained points.

Q: Distinguish between memorandum of Association and articles of association.

(16)

Ans: There are many difference between m/a & A/A. we have to explain important difference

- ① M/A. It is fundamental document which lays down the objectives of the company whereas A/A. It is the subordinate document which provides rules and regulations for the company.
- ② M/A defines the relationship between the company and outsiders whereas A/A defines the relationship between the company and its shareholder, Directors.
- ③ The M/A is the fundamental documents of the company whereas the A/A. is subordinate documents to M/A.
- ④ M/A main purpose is to define the limit or scope of the company's activities whereas the A/A - main purpose is to provide directions for the internal management of the co.
- ⑤ M/A alteration is very complicated whereas the A/A is convenient to alter.
- ⑥ Every company has to prepare its M/A whereas a public company limited by share need not prepare its A/A. because they can adopt Table-'A' of the Companies Act.
- ⑦ M/A contains ~~about~~ 6 clauses such as name clause, domicile clause, object clause, capital clause, association clause and liability clause, whereas A/A contains rules and regulations regarding internal management of the company such as rules regarding meetings, shareholders etc.

These are main difference between M/A and A/A.

Q: Explain the appointment and qualification of company secretary.

(17)

Ans

Meaning of Secretary. (Note) you have to write.

Appointment of company secretary.

The appoint of co-Secretary is a statutory obligation for every public ltd company such appointment should be through written agreement. The agreement should include the period for which he is appointed, condition of employment, salary or allowance allowed, rules regarding termination, etc.

Every public limited company must have a company Secretary. The possible ways of appointing company Secretary are discussed below.

① Appointment by the promoters.

The first Secretary of a company is generally appointed before its incorporation. The promoters give such appointment for assisting them in all preliminary works of the company formation, holding meeting, keeping minutes of meeting and preparing various documents. The name of such Secretary may be included in the A/A. of the company.

② Appointment by the first Board of Directors.

After incorporation, the first board of Directors appoint the co-Secretary by adopting resolution in their first B.O.D. meeting as his appointment is mandatory for every public limited company. Here they can appoint a new co-Secretary. or can continue the existing Secretary appointed by the promoters.

(3) Appointment from within the board of Directors :-

(18)

After incorporation, the promoters can appoint any one of them as company secretary who is deemed to be qualified for the post. In such, a special resolution needs to be adopted the post of an office.

(4) Appointment of professional Secretary :-

At the time of formation or after incorporation of the company, the directors can appoint a professional company secretary. Such secretary can be appointed on part-time or full-time contract.

Qualifications of the Secretary

Under section 25 of the Companies Act, in case of companies with a paid-up share capital of less than Rs 2000/- any individual possessing any duties. The following qualifications may be appointed as its whole-time secretary to perform the duties of Secretary.

The Qualification of the Secretary consider the following information

- i) Membership of the Institute of Company Secretary of India (ICSI)
- ii) pass in the intermediate examinations conducted by the Institute of Company Secretary in India (ICSI)
- iii) Post-Graduate degree or corporate secretoryship awarded by any university of India
- iv) Degree in Law awarded by any university.
- v) membership of Institute of Cost and Works of India (ICWAI)
- vi) post graduate in company law and secretarial practice granted by the University of Udaipur -
- vii) membership of Association of Secretaries & Managerial Staff
- viii) Diploma in Corporate Laws & Management granted by the Indian Law Institute, New Delhi

- xvi) post-graduate degree or diploma in management science granted by any university.
- xvii) post-graduate degree or diploma granted by Indian Institute of Management- Bangalore, Calcutta, Lucknow, Ahmedabad or Calicut

Qualities of the company secretary:-

In addition to the statutory qualifications a company secretary should possess certain other qualities if he is to discharge his multifarious duties efficiently. The qualities are

- 1) Sound General Education.
- 2) Command over languages
- 3) Knowledge of Office Administration
- 4) Knowledge of Accounting and Taxation.
- 5) Knowledge of company law.
- 6) Knowledge of various acts relating to staff.
- 7) Knowledge of mercantile law.
- 8) " " of industries
- 9) General knowledge
- 10) Impressive personality.

Note: I won't explain these points you have ^{to} explain two lines only ~~as~~ I am already explained in class.

Q: What is Statutory meeting? Explain the types of meeting.

(20)

ANSWER - meaning of Statutory meeting

The first meeting of creditors called by the interim trustee to elect a permanent trustee and commissioners. This meeting is the first meeting of shareholders of a public company.

It is held once in the life time of ~~any~~ any company. Section 165 of the Companies Act state that every company or members of the company within a period of not less than one month and not more than six months from the date on which the company becomes entitled to commence business. It is called "Statutory meeting" therefore it must be specifically stated in the notice calling it. It is not necessary for private company to hold a Statutory meeting.

Types of meeting

Company meeting may largely be divided into various categories according to their need and purpose for the business they are as follows.

1) Shareholders meeting: under this type of meeting it should categorised four types.

- a) Statutory meeting
- b) Annual general meeting
- c) Extra ordinary general meeting
- d) class meeting

2) Meeting of Directors, again this meeting can be categorised two types. i.e.

- a) Board of Directors-meeting
- b) committee meeting.

3) Other meetings:

(21)

other meetings which can be held in a company are as follows -

- a) meeting of debenture-holders.
- b) meeting of creditors.
- c) meeting of creditors and contributors on winding up of the company.

Let us explain in brief.

① Shareholders meeting

a) Statutory meetings : this I am already explained

b) Annual General meeting

An annual general meeting is a meeting that officers bodies, and associations involving the public including companies with shareholders, are often required by law. Every company must conduct such type of meeting yearly, in this meeting to discuss the company's decisions and works etc.

c) Extra-ordinary meeting : An extra-ordinary general meeting, such meeting is usually called by the B.O.D. for some urgent business which cannot wait to be decided till the next A.G.M. Every business transacted at such a meeting is special business.

d) Class-meeting :

class meeting are the meeting which are held by holders of a particular class of shares for example preference share holders. Such meeting are normally called when it is proposed to vary the rights of that particular class of shares. At such meetings these members discuss the pros and cons of the proposal and vote accordingly.

② Meeting of Directors

a) Board of Directors meeting

It is formal meeting of B.O.D. of an organization held usually at definite intervals to consider policy issues and major problems.

① Committee meeting :

The committee of Directors fixes its own rules of procedures, which shall be consistent with By-laws of the company. The committee shall meet at least two times annually or more frequently as circumstances or such rules of procedure as it may adopt require. The purpose this meeting is to regularise the company's activities very smooth.

③ Other meetings:-

(a) Meeting of Debenture Holders

A company issuing debentures may provide for the holding of meeting of the debenture holders. At such meeting, generally matters pertaining to the variations in terms of security or to alterations of their rights are discussed in this meeting.

(b) Meeting of creditors :-

Sometimes a company, either as a running concern or in the event of winding up of the company,

The company is going to conduct such type of meeting because it has to make certain arrangements with its creditors. So that meeting of creditor may conduct.

(c) Meeting of creditors and contributors on the winding up of the company

Any company, at the time of winding up of the company, the creditors or co. and company contributors they can forced to conduct meeting to discuss about creditors balance, and contributors' investments..

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Q: what is winding up? Explain various modes of winding up of a company. (23)

Ans: meaning of winding up of company:

winding up of company is a process of putting an end to the life of a company. It is a proceeding by means of which a company is dissolved and in the course of such a dissolution its assets are collected, its debts are paid off out of the assets of the company or from contributions by its members, if necessary. If any surplus is left, it is distributed among the members in accordance with their rights.

Definition of winding up of company

You have refer two marks question & write the definition.

various modes of winding up of a company

There are three modes of winding up of a company these are

- ① compulsory winding up by the court
- ② voluntary winding up.
- ③ winding up under the supervision of the court.

Let us explain in short

① compulsory winding up by the court

A company may wound up by an order of the court. This is called compulsory winding up. Section 433 lays down the following grounds for the winding up of a company by the court.

- ① Special resolution of the company: If company by a special resolution resolved that it may be wound up by the court.

② Default in holding statutory meetings-

If a company fails to conduct statutory meeting and default to report, statutory report to Registrar after incorporation of company, it should conduct the first meeting i.e., statutory meeting if fails to do so, the court may instead of making of winding up order.

③ failure to commence.

Where a co. does not commence its business within a year from its incorporation, or suspends its business for a whole year. the court may order for its winding up.

④ Reduction of members below minimum

Where the number of members is reduced below 7 in the case of public co. and below 2 in case of private co. the court may order the winding up of the company.

⑤ Inability to pay debts-

The court may order for the winding up of a company if it is unable to pay its debts. the basis of an order for winding up under this clause is that the co. has to ceased.

⑥ Voluntary winding up of company

A co. may voluntary wind up its affairs, If it is unable to carry on its business or if it was formed only for a limited purpose or if it is unable to meet its financial obligation and etc. A comp may voluntary wind up itself under any of the two modes

1) member's voluntary winding up.

2) Creditor's voluntary winding up.

⑦ winding up under the supervision of the court

winding up subject to supervision of court, is different from "winding up by court"? Here the court only supervise the winding up procedure. Resolution for winding up is passed by members. In the general

meeting. It is only for some specific reasons, that court (25) may supervise the winding up proceedings. The court may put up some special terms and conditions also.

However, liberty is granted to creditors, contributories, or other to apply to court for some relief (522).

The court may also appoint liquidators, in addition to already appointed, or remove any such liquidator. The court may also appoint the official liquidator, as liquidator to fill up the vacancy.

Liquidator is entitled to do all such things and acts, as he thinks best in the interest of co. He shall enjoy the same powers, as if the company is being wound up voluntarily.

The court also may ~~ever~~ exercise powers to enforce calls made by the liquidators, and such other powers, as if an order has been made for winding up the company altogether by court.

.....

Q:- what is public company and private company? Distinguish between public and private company. (26)

Ans:- meaning of public Ltd company :-

A public Ltd company is formed by minimum of seven and above people, who make financial contributions to the business and are limited by the monetary value of shares they hold. The public Ltd company has a larger number of shareholders compared to the private Ltd company and can offer its shares to the general public on the stock exchange.

meaning of private Ltd company :-

A private Ltd company is formed by minimum of two to a maximum of fifty people, who make financial contributions to the business and have limited liability. They are limited by the monetary value of the shares they hold. The private company does not offer its shares to the general public. This means that such shares can not be traded on public stock exchange such as the Nigerian Stock Exchange.

There are many difference between public company and private companies:-

- ① A public company has "Ltd" at the end of its name whereas private company has "Pvt Ltd" at the end of its name.
- ② The minimum number of members needed to form a public co. is at least 7 members. whereas the minimum number of members needed to form a private co. is at least 2 members.
- ③ The public company have no restriction on a maximum number of members. whereas the maximum number of members in a private company is restricted to 200.
- ④ Public co. should have a minimum paid up capital of 5 lakhs Rupees whereas private co. should have a minimum paid up capital of 1 lakh Rupees.

- (27)
- (5) A public co can only commence its business after recording a certificate of incorporation and certificate to commencement whereas commencement of business of private co takes place immediately after getting the certificate of incorporation.
 - (6) A public co. ~~can~~ must have at least 3 directors to manage and lead the affairs of the co. whereas private co must have at least 2 directors to lead and supervise the affairs of the co.
 - (7) Public co can issue a prospectus and free to invite public for subscription of its shares. whereas private co cannot issue prospectus. and it is not allowed for inviting the public for subscription of its shares.
 - (8) A public co. can not be able to allot shares before the minimum subscription of shares is completed. whereas a private co. can allot shares without waiting for the completion of minimum subscription limit.
 - (9) The public co. is free to transfer the shares of its company from person to another whereas private co. can not transfer the share from person to another ~~as~~ restrict the transfer.
 - (10) A public co. is obligated to have at least 5 members personally present to conduct ~~the~~ the meeting whereas private co. is obligated to have at least 2 members personally present for holding the co. meeting.
 - (11) A public co. is required to conduct a statutory meeting and file the report to the register of companies whereas a private co. is not required to conduct a statutory meeting of the members or filing.

These are main difference between public co. and private co.

Q: What is prospectus? State the objectives and content of prospectus. (28)

Ans:- meaning of prospectus

Prospectus refers to a formal legal document, which is required by and filed with the securities and exchange commission that provides details about an investment offering for sale to the public. A prospectus contains the facts that an investor needs to make an informed investment decision.

Definition of prospectus

Under the Companies Act a prospectus has been defined as "any document described or issued as a prospectus and includes any notice circulars, advertisement, or other document inviting deposits from public or inviting offers from public for subscription or purchase of shares or debentures of a company or body corporate".

Objectives of prospectus:

Prospectus is issued with the following broad objectives.

- 1) It informs the company about the formation of a new company.
- 2) It serves as written evidence about the terms and conditions of issue of shares or debentures of a company.
- 3) It induces the investors to invest in the shares and debentures of the company.
- 4) It describes the nature, extent and future prospects of the company.
- 5) It maintains all authentic records on issue and may be the directions liable for misstatement in the prospectus.

Contents of prospectus

The following important matter is included in the prospectus.

- ① The prospectus contains the main objectives of the company, the name and address of signatories of M/A and number of shares held by them.

- ② The name, address and occupation of directors and managing directors.
 - ③ The number and classes of shares and debentures issued.
 - ④ The qualification shares of Directors and the interest of directors for the promotion of company.
 - ⑤ The number, description and document of shares or debentures which within the two preceding years have been agreed to be issued other than cash.
 - ⑥ The name and address of the vendors of any property acquired by the company and the amount paid or to be paid.
 - ⑦ particular about the directors, secretaries and the treasures and their remuneration.
 - ⑧ The amount for the minimum subscriptions.
 - ⑨ If the company carrying on business, the length of time of such business.
 - ⑩ The estimated amount of preliminary expenses.
 - ⑪ Name and address of the auditors, bankers and solicitors of the company.
 - ⑫ Time and place where copies of balance sheets, profit and loss A/c and the auditor's report may be inspected.
 - ⑬ The auditor's report so submitted must deal with pfc A/c of the company for each year or five years financial year immediately preceding the issue of prospectus.
 - ⑭ If any profit or reserve has been capitalised, the particulars of such capitalised the particulars of such capitalization will be stated in the prospectus.
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Q.: Explain the Qualities and duties of company secretary -

(30)

Qualities of company secretary.

Following are the some important Qualities which the co.

Secretary can perform his duties. the qualities are.

- ① Sound General Education.
- ② command over languages.
- ③ Knowledge of office Administration.
- ④ Knowledge of Accounting and Taxation.
- ⑤ Knowledge of company law.
- ⑥ Knowledge of various acts relating to staff.
- ⑦ Knowledge of mercantile law.
- ⑧ Knowledge of the industry.
- ⑨ General Knowledge.
- ⑩ Impressive personality.

Duties of company secretary.

The duties of a Secretary vary from company to company depending upon the nature on the business, size of the co. and powers enjoyed by and responsibilities entrusted with the Secretary. The duties of a company Secretary may be classified under the following broad heads.

① Statutory duties

② General Duties.

i) Duties in relation to directors.

ii) Duties in relation to shareholders.

iii) Duties towards organisation and office.

iv) Duties in relation to the public.

1) Statutory Duties

The Statutory Duties of a company Secretary are those prescribed by the company Act or by any legislation such as the Income tax Act, Stamp Act, Employee State Insurance Act, Sales Tax Act, Industrial Disputes Act, Contract Act, and Restrictive Trade Practice Act etc.

The most important part of his statutory duties relates to the various provisions of the companies act are.

- 1) maintenance of books and registers of the company.
- 2) filing of the necessary returns with Registrar of companies.
- 3) supervising the issue, allotment, transfer and forfeiture of shares and debentures.
- 4) attending to meetings and recording their proceedings.
- 5) safe custody and proper use of the common seal of the company.
- 6) The Income-Tax Act requires him to take steps for the deduction of income tax from dividends, interest and salary and its payments on the tax authorities.
- 7) under the Stamp Act he has to see that the requisite amount are affixed to documents.

(2) General Duties

(i) Duties in relation to Directors.

The Secretary has to look after the correspondence with Directors, convene board meetings under the direction of the managing director, prepare minutes and execute the orders and instructions of the board.

He has to advise the Directors during the deliberations at the meeting regarding the provisions of various acts.

He acts as a guide to the B.O.D. the Secretary is the confidential clerk of the board and in addition to all duties he has to perform all related duties to works, Directors.

(ii) Duties in Relation to Shareholders.

As the shareholders are owners of the company, the Secretary has to safeguard their interest and should attend to their enquiries regarding payment of dividend, issue of shares etc.

He has to organize and supervise correspondence with shareholders with regards to the following.

- 1) Application and allotment of shares
- 2) calls of shares 3) forfeiture of shares by transfer and transmission of shares
- ③ distribution of dividend ④ notice & circulars to members.
- ⑦ meetings of shareholders ⑧ inquiries and complaints from shareholders.

③ Duties towards organisation and office

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The Secretary is generally recognised as the head of the office of the company and has control over departments such as shares, record and filing accounts and statistics.

He has to ensure that the office works with maximum efficiency: He has to supervise various activities of the office and also co-ordinate the activities of the different departments.

④ Duties in relation to the public

In addition to all these duties the Secretary has to perform duties in relation to public. He has to function as a medium of communication between the Directors and the general public consisting of Debenture holders, bankers, solicitors, creditors and prospective investors.

He has to be in touch with them and provide information that may be asked for. At the same time he should take care to see that no confidential information is given to the public.

Q: Define meeting Explain the essentials for a valid meeting.

(33)

Ans - meaning of meetings-

Meeting refers to a formal or informal deliberative assembly of individuals called to debate certain issues and at definite times, at a definite place, and usually for a definite duration to follow an agreed upon agenda.

It is a gathering of two or more persons who come together for important discussion and decisions on lawful matters.

Definition of meeting

'Meeting can be defined as' An official gathering of concerned persons who come together in required number, in order to discuss and arrive at decisions, required for the functioning of organisation'

Essentials for a meeting

The following are essentials for any valid meeting to be recognized as such by law.

- 1) Notice 2) Agenda 3) Quorum 4) proxy
- 5) Chairman 6) Voting and Demand for poll.
- 7) Amendment 8) Adjournment.

Let us discuss in brief.

- 1) Notice :- notice is a legal communication about the day, date, time, and venue of the meeting.

under company law, there should be a 21 days clear notice to hold a meeting of member of company. whereas a seven-day notice is required to hold a meeting of B.O.O.

- 2) Agenda :- Agenda refers to the business to be transacted at the meeting. In the case of meeting of members, there would be a few matters to be discussed. therefore the agenda is built into the notice itself.

The agenda for a meeting of shareholders could be ordinary business or special business. The agenda for an annual general meeting is well set. The agenda for other meetings is to be drafted to cover the points to be discussed.

③ Quorum- quorum refers to the minimum number of members who must be present at a meeting in order to constitute a valid meeting. A meeting without the minimum quorum is invalid and decisions taken at such a meeting are not binding. The P.L.A. or a co. may provide for a quorum but public co.'s must have present 5 members at meeting and at least two members in private co. so. Quorum is essential to conduct meeting.

④ Proxy- where a member is not able to personally attend the meeting on his behalf. The member is required to fill in a form giving the particulars of his shareholding and of the proxy. proxy forms are to be deposited with the company sufficiently in advance before the commencement of the meeting.

⑤ Chairman- the chairman is the head of the meeting. Generally the chairman of B.O.D. is the chairman of the meeting, unless the articles otherwise provide the members present in person at the meeting elect one of themselves to be chairman thereof on a show of hands.

⑥ Voting and demand for poll initially matters are decided at general meeting by a show of hands. If the majority of the hands raise their hands in favour of particular resolution. Then unless a poll is demanded, it is taken as passed. voting by a show of hands operates on the principle of "one member one vote".

⑦ Amendment Amendment means any modification to a motion before it is put to vote for adoption. Amendment may be proposed by any member who has not already spoken on the main motion or has not previously moved an amendment thereto.

⑧ Adjournment- Adjournment means suspending the proceedings of meeting for the time being so that the meeting may be continued at a later date and time fixed in that meeting itself at the time of such adjournment or to decide later on.

Q:- Explain the power, duties and responsibilities of a ~~person~~ Auditors.

(35)

Ans: Meaning of Auditor

Auditor is an official whose job is to carefully check the accuracy of business records. An auditor can be either an independent auditor unaffiliated with the company being audited or a captive auditor and some are elected public officials.

Powers of Auditors

① Right to access:- Every auditor of a company shall have right to access at all times to books of accounts, and vouchers of the company. The Auditor shall be entitled to require from office of the company such information and explanations as he may consider necessary for performance of his duties.

The auditors have some powers to give information and explanations. The list includes and relates to:

- 1) Proper security for loans and advances
- 2) Transaction by book entries
- 3) Sale of assets in securities or loss.
- 4) Loans and advances made and shown as deposits.
- 5) Personal expenses charged to Revenue etc.
- 6) Cash received for share allotted for cash.

② Auditor has power to sign audit report:-

The auditor of the company shall sign the auditor's report or sign or certify any other documents of the company and financial transactions or matters which have any adverse effect on the functioning of the co. mentioned in the auditor's report shall be read before the company in general meeting & shall be open to inspection by any member of the company.

③ Auditor in General meeting :- It is a main requirement under section 146, that the company must send all notices and communication to the auditor, relating to any general meeting and he shall attend the ~~meeting~~ meeting either through himself or through his representative, who shall also be an auditor.

(4) Right to get remuneration - The remuneration of the auditor of a company shall be fixed at its general meeting or in such manner as may be determined therein. It must include the expenses, if any, incurred by the auditor in connection with the audit of the company and any facilities extended him.

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(5) Consent of auditors - As per section 26, the company must mention in their prospectus the name, address, and consent of the auditors of the company.

Duties and Responsibilities of Auditor

(1) Auditor's duty and responsibility is to make Report -

The auditor shall make a report to the members of the company on accounts explained by him on every financial statement and shall state.

- a) whether he has sought and obtained all the necessary information and explanations.
- b) whether proper books of account have been kept.
- c) whether company's Balance sheet and P&L are in agreement with books of all and returns.

(2) Audit report of Govt companies - The auditor of the Govt company will be appointed by the controller and auditor-general of India and such auditor shall act according the direction given by them. He must submit a report to them which should include the action taken by him and impact on Ales on financial statement of the company.

(3) Auditor is liable to pay damages - As per section 245 the depository and members of the company have right to file an application before the tribunal, if they are of the opinion that the management or conduct of the affairs of the company are being conducted in a manner prejudicial to the interest of company. They also have right to claim damages from the auditor for any improper or misleading statement made in his audit report.

(4) Branch audits- where a company has a branch office, the accounts of that office shall be audited either by the auditor appointed for the company, or by any other person qualified for appointment as an auditor of the company. The Branch auditor shall prepare a report on accounts of branch examined by him and send it to the auditor of the company who shall deal with it in his report in such manner as he considers necessary.

(5) Auditing Standards - 8- Every auditor shall comply with the auditing standards. The central Govt shall notify these standards in consultation with national financial reporting authority.

The Govt may also notify that auditors report shall include a statement on such matters as notified.

(6) Auditor duty is to report if any fraud in the company is
If an auditor of a company, in the course of the performance of his duties as auditor, has reason to believe that an offence involving fraud is being or has been committed against the company by officers or employees of the company, he shall immediately report the matter to the central Govt within such time and in such manner as may be prescribed.

(7) Auditor duty is attach auditor's report at the time of voluntary winding up of a company.

It is mandatory requirement that auditor should attach the copy of the audits of the company which is prepared him.