

BASICS OF COMPANY LAW

1. WHAT IS COMPANY?

Basic Meaning	Legal Meaning
<p>Lord Justice Lindley has defined a company as “an association of many persons who contribute money or money’s worth to a common stock and employ it in some trade or business and who share the profit and loss arising therefrom.</p> <p>The common stock so contributed is denoted in money and is the capital of the company. The persons who contributed in it or form it, or to whom it belongs, are members.</p> <p>The proportion of capital stock to which each member has contributed entitled is his “share”. The shares are always transferable although the right to transfer them may be restricted.</p>	<p>In terms of the Companies Act, 2013 (Act No. 18 of 2013)</p> <p>a “company” means a company incorporated under this Act or under any previous company law [Section 2(20)].</p>

2. Why company form of business was invented when we already had partnership structure?

Demerits of partnership	Merits of Partnership
1. Unlimited Liability	1. Limited Liability
2. Personal Liability	2. No Personal Liability
3. Liability of one, born by all	3. Liability of one, born by oneself
4. No Perpetual Succession	4. Perpetual Succession
5. No Separate Legal Identity	5. Separate Legal Identity
6. Compulsory distribution of profits	6. Voluntary distribution of profits
7. Restricted Transferability of share	7. Free transferability of shares
8. Limited numbers of partners	8. Unlimited number of members
9. Voluntary Registration causing losses	9. Compulsory Registration

3. What are the basic features of Company?

1. Corporate personality	2. Company as an artificial person	3. Company is not a citizen	4. Company has Nationality and Residence	5. Limited Liability
6. Perpetual Succession	7. Separate Property	8. Transferability of Shares	9. Capacity to Sue and Be Sued	10. Contractual Rights
11. Limitation of Action	12. Separate Management	13. Voluntary Association for Profit	14. Termination of Existence	15.

4. WHAT ARE THE ADVANTAGES OF OPENING A COMPANY?

Limited Liability	No Personal Liability	Liability of one, born by oneself	Perpetual Succession
Separate Legal Identity	Voluntary distribution of profits	Free transferability of shares	Unlimited number of members

5. WHAT ARE THE DISADVANTAGES OF OPENING A COMPANY?

Costly Incorporation	Costly Management & Maintenance	Excessive Compliance Burden	Greater Social Responsibility
Greater tax burden	Long Winding up process	Excessive Corporate Disclosures	Separation of Control from ownership

6. WHO ARE THE KEY PEOPLE IN LIFE OF THE COMPANY?

1. Promoters	2. Shareholders	3. Directors	4. Officers
5. Key Managerial Personnel	6. Registrar	7. Regional Director	8. NCLT/NCLAT

7. WHO ARE PROMOTERS?

Section 2(69) “promoter” means a person—		
(a) who has been named as such in a prospectus or is identified by the company in the annual return referred to in section 92; or	(b) who has control over the affairs of the company, directly or indirectly whether as a shareholder, director or otherwise; or	(c) in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act:

<p>Provided that nothing in sub-clause (c) shall apply to a person who is acting merely in a professional capacity;</p>		

8. WHO ARE SHAREHOLDERS?

<p>A shareholder, also referred to as a stockholder, is a person, company, or institution that owns at least one share of a company's stock.</p>	<p>Depending upon the types of shares, shareholders can also be of various kinds like equity shareholders and preference shareholders.</p>
--------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------

9. WHO ARE DIRECTORS?

Basic Meaning	Legal Meaning
<p>A Director of a Company is a person that is elected by the shareholders to manage the affairs of the company as per the MOA and AOA. As the company is an artificial person it can only act through the agency of a natural person.</p>	<p>Section 2(34) "director" means a director appointed to the Board of a company;</p>

10. WHO ARE OFFICERS?

<p>Section 2(59) "officer" includes</p>			
any director,	manager	or key managerial personnel	or any person in accordance with
<p>whose directions or instructions the Board of Directors or any one or more of the Directors is or are accustomed to act;</p>			

11. WHO ARE KMP?

<p>Section 2(51) "key managerial personnel", in relation to a company, means—</p>					
(i) the Chief Executive Officer or the managing	(ii) the company secretary;	(iii) the whole-time director;	(iv) the Chief Financial Officer;	(v) such other officer, not more than 1 level below the	(vi) such other officer as may be prescribed;

director or the manager;				Directors who is in whole-time employment, designated as key managerial personnel by the Board; and	
--------------------------	--	--	--	-----------------------------------------------------------------------------------------------------	--

12. WHO ARE REGISTRARS OF COMPANIES?

Section 2(75) Registrar of Companies (ROC) means

a Registrar, an	Additional Registrar,	a Joint Registrar,	a Deputy Registrar	or an Assistant Registrar,	having the duty of registering companies and discharging various functions under this Act.
-----------------	-----------------------	--------------------	--------------------	----------------------------	--------------------------------------------------------------------------------------------

13. WHO ARE REGIONAL DIRECTORS?

Regional Director (RD) is in-charge of the respective region, each region comprising a number of States and Union Territories.	They supervise the working of the offices of the Registrars of Companies and the Official Liquidators working in their regions.	They also maintain liaison with the respective State Governments and the Central Government in matters relating to the administration of the Companies Act and LLP Act.	Certain powers of the Central Government under the Act have been delegated to the Regional Directors.	They have also been declared as heads of Department.
--------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------	------------------------------------------------------

14. WHO IS NCLT?

<p>The National Company Law Tribunal is a quasi-judicial body in India that adjudicates issues relating to Indian companies.</p>	<p>All proceedings under the Companies Act, such as proceedings relating to arbitration, compromise, arrangement, reconstruction, and the winding up of companies shall be disposed off by the NCLT.</p>	<p>The National Company Law Tribunal is the adjudicating authority for the insolvency resolution process of companies and limited liability partnerships under the Insolvency and Bankruptcy Code, 2016.</p>
----------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

15. WHO IS NCLAT?

<p>National Company Law Appellate Tribunal (NCLAT) is the appellate authority for orders of:</p>				
<p>NCLT under Company Law</p>	<p>NCLT under IBC, 2016</p>	<p>IBBI under IBC, 2016</p>	<p>CCI under Competition Act, 2002</p>	<p>NFRA under Company Law</p>

QUESTIONS

Q. 1 A shareholder holds 99% of the share capital of a company can he be held liable for the acts of the company

Q. 2 Two companies are incorporated with the same set of shareholders. Are they same or distinct under the Companies Act, 2013?

Q. 3 Six persons are the only members of Tab (Pvt.) Ltd. All of them went to USA on a pleasure trip by airplane. on the way crashed and all the six members died. Does Tab (Pvt.) Ltd. Still exist? Decide.

Q. 4 In an annual general meeting of Amar (Pvt.) Ltd. All the shareholders were killed in a bomb blast. State whether the company is still in existence, if so, how?

CORPORATE VEIL THEORY

1. CORPORATE VEIL THEORY

Corporate Veil refers to a legal concept whereby the company is identified separately from the members of the company.

Members of a company are shielded from liability connected to the company's actions. If the company incurs any debts or contravenes any laws, the corporate veil concept implies that members should not be liable for those errors.

"Lifting the corporate veil" means looking behind the company as a legal person, i.e., disregarding the corporate entity and paying regard, instead, to the realities behind the legal facade.

Where the Courts ignore the company and concern themselves directly with the members or managers, the corporate veil may be said to have been lifted.

Following are the possible cases/situations where corporate veil is/can be lifted:

Where the corporate veil has been used for commission of fraud or improper conduct.

Where a corporate facade is really only an agency instrumentality.

Where the conduct conflicts with public policy.

Where the company character of being an enemy is to be found out.

Where it was found that the sole purpose for which the company was formed was to evade taxes.

Avoidance of welfare legislation like payment of bonus to workers.

Where it is found that a company has abused its corporate personality for an unjust and inequitable purpose.

QUESTIONS**Q. 1**

F, an assessee, was a wealthy man earning huge income by way of dividend and interest. He formed three private companies and agreed with each to hold a bloc of investment as an agent for it. The dividend and interest income received by the company was handed back to F as a pretended loan. This way F divided his income into three parts in a bid to reduce his tax liability.

Decide, for what purpose three companies were established? Whether the legal personality of all the three companies may be disregarded?

Q. 2

Some of the creditors of M/s get Rich Quick Ltd. Have complained that the company was formed by the promoters only to defraud the creditors and circumvent the compliance of legal provisions of the companies act, 2013. In this context they seek your advice as to the meaning of corporate veil and when the promoters can be made personally liable for the debts of the company.

Q. 3

There are cases, where company law disregards the principle of corporate personality or the principle that the company is a legal entity distinct from its shareholders or members. Elucidate.

Q. 4

A, an assessee, had large income in the form of dividend and interest. In order to reduce his tax liability, he formed four private limited company and transferred his investments to them in exchange of their shares. The income earned by the companies was taken back by him as pretended loan. Can A be regarded as separate from the private limited company he formed?

Q. 5

Rani is a wealthy lady enjoying large dividend and interest income. She has formed three private companies and agreed with each of them to hold a block of investment as an agent for it. Income received was credited in the accounts of the company, but the company handed back the amount to her as a pretended loan. This way she divided her income in three parts in a bid to reduce her tax liability. Discuss the legality of the purpose for which the three companies were formed.

Q. 6

“Separate personality of a company is a special privilege, in case of dishonest or fraudulent use of this privilege, corporate veil can be lifted”. Discuss.

Q. 7

Explain clearly the meaning of 'lifting of corporate veil' in relation to a company incorporated under the Companies Act, 2013. Examining the judicial decisions, state whether 'corporate veil' can be lifted in the following cases.

- (a) Where the corporate veil has been used for improper conduct; and
- (b) Where the acts of a company are opposed to workmen?

DEFINITIONS UNDER COMPANY LAW

MAJOR DEFINITIONS

1. Articles (Section 2(5))	“Articles” means the articles of association of a company as originally framed or as altered from time to time or applied in pursuance of any previous company law or of this Act;
2. Authorized Capital (Section 2(8))	“Authorized capital” or “nominal capital” means such capital as is authorised by the memorandum of a company to be the maximum amount of share capital of the company;
3. Board of Directors (Section 2(10))	“Board of Directors” or “Board”, in relation to a company, means the collective body of the Directors of the company;
4. Body Corporate (Section 2(11))	<p>“Body Corporate” or “Corporation” includes a company incorporated outside India, but does not include—</p> <p>(i) a co-operative society registered under any law relating to co-operative societies; and</p> <p>(ii) any other body corporate (not being a company as defined in this Act), which the Central Government may, by notification, specify in this behalf;</p>
5. Book and Paper (Section 2(12))	“Book and paper” and “book or paper” include books of account, deeds, vouchers, writings, documents, minutes and registers maintained on paper or in electronic form;
6. Books of account (Section 2(13))	<p>“Books of account” includes records maintained in respect of—</p> <p>(i) all sums of money received and expended by a company and matters in relation to which the receipts and expenditure take place;</p> <p>(ii) all sales and purchases of goods and services by the company;</p>

DEFINITIONS UNDER COMPANY LAW

	<p>(iii) the assets and liabilities of the company; and</p> <p>(iv) the items of cost as may be prescribed under section 148 in the case of a company which belongs to any class of companies specified under that section.</p>
7. Called up Capital (Section 2(15))	“Called-up capital” means such part of the capital, which has been called for payment;
8. Charge (Section 2(16))	“Charge” means an interest or lien created on the property or assets of a company or any of its undertakings or both as security and includes a mortgage;
9. Chartered Accountant (Section 2(17))	“Chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) who holds a valid certificate of practice under sub-section (1) of section 6 of that Act;
10. Company Liquidator (Section 2(23))	<p>“Company Liquidator”, means a person appointed by the Tribunal as the Company Liquidator in accordance with the provisions of section 275 for the winding up of a company under this Act”;</p> <p>(a) the Tribunal in case of winding up by the Tribunal; or</p> <p>(b) the company or creditors in case of voluntary winding up, as a Company Liquidator from a panel of professionals maintained by the Central Government under sub-section (2) of section 275;</p>
11. Company Secretary (Section 2(24))	“Company secretary” or “secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) who is appointed by a company to perform the functions of a company secretary under this Act;
12. Company Secretary in Practice (Section 2(25))	“Company secretary in practice” means a company secretary who is deemed to be in practice under sub-section (2) of section 2 of the Company Secretaries Act, 1980 (56 of 1980);
13. Contributory (Section 2(26))	“Contributory” means a person liable to contribute towards the assets of the company in the event of its being wound up.

DEFINITIONS UNDER COMPANY LAW

	<p>Explanation. —For the purposes of this clause, it is hereby clarified that a person holding fully paid-up shares in a company shall be considered as a contributory but shall have no liabilities of a contributory under the Act whilst retaining rights of such a contributory;</p>
14. Control (Section 2(27))	<p>“Control” shall include the right to appoint majority of the Directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner;</p>
15. Cost Accountant (Section 2(28))	<p>“Cost Accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 and who holds a valid certificate of practice under sub-section (1) of section 6 of that Act;</p>
16. Court (Section 2(29))	<p>“Court” means—</p> <p>(i) the High Court having jurisdiction in relation to the place at which the registered office of the company concerned is situate, except to the extent to which jurisdiction has been conferred on any district court or district courts subordinate to that High Court under sub-clause (ii);</p> <p>(ii) the district court, in cases where the Central Government has, by notification, empowered any district court to exercise all or any of the jurisdictions conferred upon the High Court, within the scope of its jurisdiction in respect of a company whose registered office is situate in the district;</p> <p>(iii) the Court of Session having jurisdiction to try any offence under this Act or under any previous company law;</p> <p>(iv) the Special Court established under section 435</p> <p>(v) any Metropolitan Magistrate or a Judicial Magistrate of the First Class having jurisdiction to try any offence under this Act or under any previous company law;</p>
17. Debenture (Section 2(30))	<p>“Debenture” includes debenture stock, bonds or any other instrument of a company evidencing a debt, whether constituting a charge on the assets of the company or not;</p>

DEFINITIONS UNDER COMPANY LAW

	<p>Provided that—</p> <p>(a) the instruments referred to in Chapter III-D of the Reserve Bank of India Act, 1934; and</p> <p>(b) such other instrument, as may be prescribed by the Central Government in consultation with the Reserve Bank of India, issued by a company, shall not be treated as debenture;</p>
18. Deposit (Section 2(31))	“Deposit” includes any receipt of money by way of deposit 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;
19. Director (Section 2(34))	“Director” means a director appointed to the Board of a company;
20. Dividend (Section 2(35))	“Dividend” includes any interim dividend;
21. Documents (Section 2(36))	“Document” includes summons, notice, requisition, order, declaration, form and register, whether issued, sent or kept in pursuance of this Act or under any other law for the time being in force or otherwise, maintained on paper or in electronic form;
22. Expert (Section 2(38))	“Expert” includes an engineer, a valuer, a chartered accountant, a company secretary, a cost accountant and any other person who has the power or authority to issue a certificate in pursuance of any law for the time being in force;
23. Financial Statement (Section 2(40))	<p>“Financial statement” in relation to a company, includes—</p> <p>(i) a balance sheet as at the end of the financial year;</p> <p>(ii) a profit and loss account, or in the case of a company carrying on any activity not for profit, an income and expenditure account for the financial year;</p> <p>(iii) cash flow statement for the financial year;</p> <p>(iv) a statement of changes in equity, if applicable; and</p> <p>(v) any explanatory note annexed to, or forming part of, any document referred to in sub-clause (i) to sub-clause (iv):</p>

DEFINITIONS UNDER COMPANY LAW

	<p>Provided that the financial statement, with respect to One Person Company, small company and dormant company, may not include the cash flow statement;</p>
<p>24. Financial Year (Section 2(41))</p>	<p>“Financial year”, in relation to any company or body corporate, means the period ending on the 31st day of March every year, and where it has been incorporated on or after the 1st day of January of a year, the period ending on the 31st day of March of the following year, in respect whereof financial statement of the company or body corporate is made up:</p> <p>[Provided that where a company or body corporate, which is a holding company or a subsidiary or associate company of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the Central Government may, on an application made by that company or body corporate in such form and manner as may be prescribed, allow any period as its financial year, whether or not that period is a year:</p> <p>[Provided further that]] any application pending before the Tribunal as on the date of commencement of the Companies (Amendment) Ordinance, 27[2019], shall be disposed of by the Tribunal in accordance with the provisions applicable to it before such commencement]]]</p> <p>Provided also that]] a company or body corporate, existing on the commencement of this Act, shall, within a period of two years from such commencement, align its financial year as per the provisions of this clause;</p>
<p>25. Free Reserve (Section 2(43))</p>	<p>“Free reserves” means such reserves which, as per the latest audited balance sheet of a company, are available for distribution as dividend:</p> <p>Provided that—</p> <p>(i) any amount representing unrealised gains, notional gains or revaluation of assets, whether shown as a reserve or otherwise, or</p> <p>(ii) any change in carrying amount of an asset or of a liability recognised in equity, including surplus in profit and loss account on measurement of the asset or the liability at fair value, shall not be treated as free reserves;</p>

DEFINITIONS UNDER COMPANY LAW

26. Issued Capital (Section 2(50))	“Issued capital” means such capital as the company issues from time to time for subscription;
27. Manager (Section 2(53))	“Manager” means an individual who, subject to the superintendence, control and direction of the Board of Directors, has the management of the whole, or substantially the whole, of the affairs of a company, and includes a director or any other person occupying the position of a manager, by whatever name called, whether under a contract of service or not;
28. Managing Director (Section 2(54))	<p>“Managing director” means a director who, by virtue of the articles of a company or an agreement with the company or a resolution passed in its general meeting, or by its Board of Directors, is entrusted with substantial powers of management of the affairs of the company and includes a director occupying the position of managing director, by whatever name called.</p> <p>Explanation.—For the purposes of this clause, the power to do administrative acts of a routine nature when so authorised by the Board such as the power to affix the common seal of the company to any document or to draw and endorse any cheque on the account of the company in any bank or to draw and endorse any negotiable instrument or to sign any certificate of share or to direct registration of transfer of any share, shall not be deemed to be included within the substantial powers of management;</p>
29. Member (Section 2(55))	<p>“Member”, in relation to a company, means—</p> <p>(i) the subscriber to the memorandum of the company who shall be deemed to have agreed to become member of the company, and on its registration, shall be entered as member in its register of members;</p> <p>(ii) every other person who agrees in writing to become a member of the company and whose name is entered in the register of members of the company;</p> <p>(iii) every person holding shares of the company and whose name is entered as a beneficial owner in the records of a depository;</p>

DEFINITIONS UNDER COMPANY LAW

30. Memorandum (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;
31. Net Worth (Section 2(57))	“Net worth” means the aggregate value of the paid-up share capital and all reserves created out of the profits ,securities premium account and debit or credit balance of profit and loss account], after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation;
32. Officer in Default (Section 2(60))	“Officer who is in default”, for the purpose of any provision in this Act which enacts that an officer of the company who is in default shall be liable to any penalty or punishment by way of imprisonment, fine or otherwise, means any of the following officers of a company, namely:— (i) whole-time director; (ii) key managerial personnel; (iii) where there is no key managerial personnel, such director or Directors as specified by the Board in this behalf and who has or have given his or their consent in writing to the Board to such specification, or all the Directors, if no director is so specified; (iv) any person who, under the immediate authority of the Board or any key managerial personnel, is charged with any responsibility including maintenance, filing or distribution of accounts or records, authorises, actively participates in, knowingly permits, or knowingly fails to take active steps to prevent, any default; (v) any person in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act, other than a person who gives advice to the Board in a professional capacity; (vi) every director, in respect of a contravention of any of the provisions of this Act, who is aware of such contravention by virtue of the receipt by him of any proceedings of the Board or participation in such

DEFINITIONS UNDER COMPANY LAW

	<p>proceedings without objecting to the same, or where such contravention had taken place with his consent or connivance;</p> <p>(vii) in respect of the issue or transfer of any shares of a company, the share transfer agents, registrars and merchant bankers to the issue or transfer;</p>
33. Ordinary and Special Resolution (Section 2(63))	"Ordinary or special resolution" means an ordinary resolution, or as the case may be, special resolution referred to in section 114;
34. Paid up Share Capital (Section 2(64))	"Paid-up share capital" or "share capital paid-up" means such aggregate amount of money credited as paid-up as is equivalent to the amount received as paid-up in respect of shares issued and also includes any amount credited as paid-up in respect of shares of the company, but does not include any other amount received in respect of such shares, by whatever name called;
35. Postal Ballot (Section 2(65))	"Postal ballot" means voting by post or through any electronic mode;
36. Prospectus (Section 2(70))	"Prospectus" means any document described or issued as a prospectus and includes a red herring prospectus referred to in section 32 or shelf prospectus referred to in section 31 or any notice, circular, advertisement or other document inviting offers from the public for the subscription or purchase of any securities of body corporate;
37. Related Party (Section 2(76))	<p>"Related party", with reference to a company, means—</p> <p>(i) a director or his relative;</p> <p>(ii) a key managerial personnel or his relative;</p> <p>(iii) a firm, in which a director, manager or his relative is a partner;</p> <p>(iv) a private company in which a director or manager or his relative is a member or director;</p> <p>(v) A public company in which a director or manager and holds is a director or holds along with his relatives, more than two per cent. of its paid-up share capital;</p>

DEFINITIONS UNDER COMPANY LAW

	<p>(vi) anybody corporate whose Board of Directors, managing director or manager is accustomed to act in accordance with the advice, directions or instructions of a director or manager;</p> <p>(vii) any person on whose advice, directions or instructions a director or manager is accustomed to act:</p> <p>Provided that nothing in sub-clauses (vi) and (vii) shall apply to the advice, directions or instructions given in a professional capacity;</p> <p>(viii) any company which is—</p> <p>(A) a holding, subsidiary or an associate company of such company; or</p> <p>(B) a subsidiary of a holding company to which it is also a subsidiary;</p> <p>(C) an investing company or the venturer of the company;"</p> <p>Explanation.—For the purpose of this clause, “the investing company or the venturer of a company” means a body corporate whose investment in the company would result in the company becoming an associate company of the body corporate.]</p> <p>(ix) such other person as may be prescribed;</p> <p>For the purposes of sub-clause (ix) of clause (76) of section 2 of the Act, a director 1[other than an independent director] or key managerial personnel of the holding company or his relative with reference to a company, shall be deemed to be a related party.</p>
38. Relative (Section 2(77))	<p>“Relative”, with reference to any person, means any one who is related to another, if—</p> <p>(i) they are members of a Hindu Undivided Family;</p> <p>(ii) they are husband and wife; or</p> <p>(iii) one person is related to the other in such manner as may be prescribed;</p>

	<p>List of Relatives in Terms of Clause (77) of section 2</p> <p>A person shall be deemed to be the relative of another, if he or she is related to another in the following manner, namely:-</p> <p>(1) Father: Provided that the term “Father” includes step-father.</p> <p>(2) Mother: Provided that the term “Mother” includes the step-mother.</p> <p>(3) Son: Provided that the term “Son” includes the step-son.</p> <p>(4) Son’s wife.</p> <p>(5) Daughter.</p> <p>(6) Daughter’s husband.</p> <p>(7) Brother: Provided that the term “Brother” includes the step-brother;</p> <p>(8) Sister: Provided that the term “Sister” includes the step-sister.</p>
<p>39. Remuneration (Section 2(78))</p>	<p>“Remuneration” means any money or its equivalent given or passed to any person for services rendered by him and includes perquisites as defined under the Income-tax Act, 1961 (43 of 1961);</p>
<p>40. Share (Section 2(84))</p>	<p>“Share” means a share in the share capital of a company and includes stock;</p>
<p>41. Subscribed Capital (Section 2(86))</p>	<p>“Subscribed capital” means such part of the capital which is for the time being subscribed by the members of a company;</p>
<p>42. Sweat Equity Share (Section 2(88))</p>	<p>“Sweat equity shares” means such equity shares as are issued by a company to its Directors or employees at a discount or for consideration, other than cash, for providing their know-how or making available rights in the</p>

DEFINITIONS UNDER COMPANY LAW

	nature of intellectual property rights or value additions, by whatever name called;
43. Total Voting Power (Section 2(89))	“Total voting power”, in relation to any matter, means the total number of votes which may be cast in regard to that matter on a poll at a meeting of a company if all the members thereof or their proxies having a right to vote on that matter are present at the meeting and cast their votes;
44. Turnover (Section 2(91))	“Turnover” means the aggregate value of the realisation of amount made from the sale, supply or distribution of goods or on account of services rendered, or both, by the company during a financial year.]
45. Voting Rights (Section 2(93))	“Voting right” means the right of a member of a company to vote in any meeting of the company or by means of postal ballot;
46. Whole Time Director (Section 2(94))	“Whole-time director” includes a director in the whole-time employment of the company;

TYPES OF COMPANIES

1. WHAT ARE THE BASIC TYPES OF COMPANIES?

On the basis of Liability	On the basis of Members	On the basis of Control	On the basis of Capital	Other Companies
1. Limited by Shares	4. One Person Company	8. Holding Company	11. Listed Company	13. Government Company
2. Limited by Guarantee	5. Private Company	9. Subsidiary Company	12. Unlisted Company	14. Foreign Company
3. Unlimited Company	6. Public Company	10. Associate Company		15. Charitable Company
	7. Small Company			16. Dormant Company
				17. Nidhi Company
				18. Public Financial Institution
				19. Producer Company

2. WHAT IS COMPANY LIMITED BY SHARES

Section 2(22) of the Companies Act, 2013, defines that when the liability of the members of a company is limited by its *memorandum of association* to the amount (if any) unpaid on the shares held by them, it is known as a company limited by shares.

The shareholder may be called upon to contribute only to the extent of the amount, which remains unpaid on his shareholdings.	His separate property cannot be encompassed to meet the company's debt.	Although a shareholder is a co-owner of the company, he is not a co-owner of the company's assets.	The ownership of the assets remains with the company, because of its nature as a legal person.	The extent of the rights and duties of a shareholder as co-owner is measured by his shareholdings.
-------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------

3. WHAT IS COMPANY LIMITED BY GUARANTEE

Section 2(21) of the Companies Act, 2013 defines it as the company having the liability of its members limited by the memorandum to such amount as the members may respectively undertake by the memorandum to contribute to the assets of the company in the event of its being wound up.

TYPES OF COMPANIES

The liability of the member of a guarantee company is limited upto a stipulated sum mentioned in the memorandum. Members cannot be called upon to contribute beyond that stipulated sum.	The members may be called upon to discharge their liability only after commencement of the winding up and only subject to certain conditions	It does not raise its initial working funds from its members. Therefore, such a company may be useful only where no working funds are needed	Or where these funds can be held from other sources like endowment, fees, charges, donations, etc.	The membership of a guarantee company may carry privileges much different from those of ordinary shareholders.
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------

4. WHAT IS UNLIMITED COMPANY

Section 2(92) of the Companies Act, 2013 defines unlimited company as a company not having any limit on the liability of its members.

In such a company, the liability of a member ceases when he ceases to be a member.	The liability of each member extends to the whole amount of the company's debts and liabilities but he will be entitled to claim contribution from other members.	So long as the company is a going concern the liability on the shares is the only liability which can be enforced by the company.	The creditors can institute proceedings for winding up of the company for their claims.	The official liquidator may call the members for their contribution towards the liabilities and debts of the company, which can be unlimited.
------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------

5. WHAT IS ONE PERSON COMPANY

Section 2(62) of the Companies Act, 2013 defines one person company (OPC) as a company which has only one person as a member.

It is basically a private company.	It has only 1 person as member however director can be more than 1.	Its memorandum must specify the nominee.	Its nominee must also give his written consent. (INC-3)	Its Nominee can withdraw consent anytime. (New nominee in 15 Days)
------------------------------------	---------------------------------------------------------------------	------------------------------------------	---------------------------------------------------------	---------------------------------------------------------------------------

TYPES OF COMPANIES

<p>Its member can change nominee anytime and any number of time.</p> <p>(ROC Filing in INC-4 in 30 Days.)</p>	<p>Both member and nominee must be natural person, Indian Citizen.</p>	<p>Both member and nominee may or may not be resident.</p> <p>(Resident = Stay in India in PY >= 120 days)</p>	<p>1 person can be member in only 1 OPC</p>	<p>1 person can be Nominee of only 1 OPC</p>
<p>Same person can be member in 1 OPC and nominee in another OPC</p>	<p>No place for minors.</p>	<p>If a person happens to be member of more than 1 OPC, he must leave 1 of these OPC in 180 days, else, he will lose automatically membership of new OPC.</p>	<p>OPC cannot be charitable.</p>	<p>OPC cannot carry out NBFC business</p>

Q. 1

AXAR is in plant research and has invented a process for extracting biofuel from certain plants now he is proposing to commercialize his invention by promoting a one person company but he proposes his name and his wife name as directors of the company as a company secretary clarify AXA on number of shareholders and directors one person company can have also brief him about the provisions on Board, Annual General Meeting, signing of financial statements, board report and annual report annual return.

Q. 2

Ruchi Private Limited a company Incorporated under the provisions of the Companies Act 2013, gives you the following information:

Paid up equity share capital Rs. 40 lacs

Average annual turnover during the last three years Rs. 1 crore

The board of directors of the company decide to convert the company into one person company. Examining the provision of Companies Act 2013, advise the board about the statutory requirements to be complied with for giving effect to the boats approve boats proposal.

Q. 3

Rohan a person resident in India, has been running a hotel as a sole proprietor. He now wants to convert his business into a one person company (OPC) as permissible are the provisions of the Companies Act 2013 and seeks your advice in this regard. Advise him on the procedure to be followed for conversion of his business into an OPC.

What shall be your advice if Rohan is a non-resident Indian? Whether a partnership firm can form one person company?

Q. 4

Define OPC (One Person Company) and state the rules regarding its membership. Can it be converted into a non profit company under section 8 or a private company?

Q. 5

Mr. anil formed a One Person Company (OPC) on 16th April 2018 for manufacturing electric cars. The turnover of the OPC for the financial year ended 31st March 2019 was about Rs. 2.25 crores. His friend Sunil wanted to invest in his OPC, so they decided to convert it voluntarily into a private limited company. Can Anil do so?

Q. 6

Mr. Raja along with his family members is successfully running a trading business. He is capable of developing his ideas and participating in the marketplace. To achieve this, Mr. Raja formed a single person economic entity in the form of One Person Company with his brother Mr. king as its nominee. On 4th May 2020, Mr. King withdrew his consent as Nominee of the One Person Company. Can he do so under the provisions of the companies act, 2013/ Examine whether the following individuals are eligible for being nominated as nominee of the one-person company as on 5th May 2020 under the above said act.

- (i) Mr. shyam son of Mr. Raja who is 15 years old as on 5th May 2020.
- (ii) Ms. Devaki an Indian citizen, sister of Mr. Raja stays in Dubai and India. She stayed in India during he period from 2nd January 2019 to 16th august 2019. Thereafter she left for Dubai and stayed there.
- (iii) Mr. Ashok, an Indian citizen residing in India who is presently a member of a 'One Person Company'.

Q. 7

XYZ a One Person Company (OPC) was incorporated during the year 2014 – 15 with an authorized capital of Rs. 45.00 lakhs (4.5 lakh shares of Rs. 10 each). The capital was fully subscribed and paid up. Turnover of the company during 2014-15 and 2015-16 was Rs. 2.00 crores and Rs. 2.5 crores respectively. Promoter of the company seeks your advice in following circumstances, whether XYZ (OPC) can convert into any other kind of company during 2016-17. Please, advise with reference to relevant provisions of the companies act, 2013 in the below mentioned circumstances:

- (i) If promoter increases the paid-up capital of the company by Rs. 10 lakhs during 2016-17.
- (ii) If turnover of the company during 2016-17 was Rs. 3 crores.

Q. 8

Naveen incorporated a "One Person Company" making his sister Navita as the nominee. Navita is leaving India permanently due to her marriage abroad. Due to this fact, she is withdrawing her consent of nomination in the said One Person Company. Taking into considerations the provisions of the companies Act, 2013 answer the questions given below:

- (a) If Navita is leaving India permanently, is it mandatory for her to withdraw her nomination in the said one Person company?
- (b) If Navita maintained the status of resident of India after her marriage, then can she continue her nomination in the said one person company?

6. WHAT IS PRIVATE COMPANY

<p>[Section 2(68)]: “Private company” means a company having a minimum paid-up share capital as may be prescribed, and which by its articles, —</p>		
<p>(i) restricts the right to transfer its shares;</p>	<p>(ii) except in case of One Person Company, limits the number of its members to two hundred: (Min Members :2)</p>	<p>(iii) prohibits any invitation to the public to subscribe for any securities of the company.</p>
<p>Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member:</p> <p>Provided further that—</p> <p>(A) persons who are in the employment of the company; and</p> <p>(B) persons who, having been formerly in the employment of the company, were members of the company while in that employment and have continued to be members after the employment ceased, shall not be included in the number of members.</p>		

Q. 9

ABC Ltd. Was registered as a public company. There were 245 members in the company. Their details are as follows.

Directors and their relatives	190
Employees	15
Ex employees (shares were allotted when they were employees)	20
Others (including 10 joint holders holding shares jointly in the name of Father and son)	20

The board of directors of the company propose to convert it into a private company. Advice whether reduction in the number of members is necessary for conversion.

7. WHAT IS SMALL COMPANY

<p>Small company given under the Section 2(85) of the Companies Act, 2013 which means a company, other than a public company</p>	
<p>(i) paid-up share capital of which does not exceed 2 crore rupees, or such higher amount</p>	<p>(ii) turnover of which as per profit and loss account for the immediately preceding financial year does not exceed 20 crore rupees</p>

as may be prescribed which shall not be more than ten crore rupees: and	or such higher amount as may be prescribed which shall not be more than one hundred crore rupees
<p>Exceptions:</p> <p>This clause shall not apply to:</p> <p>(A) a holding company or a subsidiary company; (B) a company registered under section 8; or (C) a company or body corporate governed by any special Act.</p>	

Q. 10

TP private limited company registered under the Companies Act 2013 with paid up capital of rupees 35 lakh and turnover of rupees 2.5 crore. Explain the meaning of small company and examine the following in accordance with the provisions of the Companies Act 2013:

- (i) Whether the TP Private Limited can avail the status of small company?
- (ii) Will your answer be different if the turnover of the company is rupees one crore?

Q. 11

San Industries Private Limited company has it paid up share capital of rupees 40 lacs and turnover of rupees 10 crore as per the latest audited balance sheet. Examining the provisions of the Companies Act 2013 decide whether the company will be treated as a small company. What would be your answer in case the company is governed by any special act?

Q. 12

MNP Private Ltd. Is a company registered under the companies act, 2013 with a paid up share capital of Rs. 45 lakh and turnover of Rs. 3 crores. Explain the meaning of the “small company” and examine the following in accordance with the provisions of the companies act, 2013.

- (i) Whether the MNP private Ltd. Can avail the status of small company?
- (ii) What will be your answer if the turnover of the company is Rs. 1.50 crore?

8. WHAT IS PUBLIC COMPANY

[Section 2(71)]: “Public company” means a company which—	
(i) is not a private company; and	(ii) has a minimum paid-up share capital, as may be prescribed. (Min Members :7)

Provided that a company which is a subsidiary of public company, shall be deemed to be public company for the purposes of this Act even where such subsidiary company continues to be a private company in its articles.

9. WHAT ARE HOLDING AND SUBSIDIARY COMPANIES

'Holding and subsidiary' companies are relative terms.

A company is a holding company in relation to one or more other companies, means a company of which such companies are subsidiary companies. [Section 2(46)]

Whereas section 2(87) defines "subsidiary company" in relation to any other company (that is to say the holding company), means a company in which the holding company—

(i) controls the composition of the Board of Directors; or

(ii) exercises or controls more than one-half of the total voting power either at its own or together with one or more of its subsidiary companies:

Section 2(87) continued:

Provided that such class or classes of holding companies as may be prescribed shall not have layers of subsidiaries beyond such numbers as may be prescribed.

For the purposes of this section —

(I) a company shall be deemed to be a subsidiary company of the holding company even if the control referred to in sub-clause (i) or sub-clause (ii) is of another subsidiary company of the holding company;

(II) the composition of a company's Board of Directors shall be deemed to be controlled by another company if that other company by exercise of some power exercisable by it at its discretion can appoint or remove all or a majority of the directors;

(III) the expression "company" includes anybody corporate;

(IV) "layer" in relation to a holding company means its subsidiary or subsidiaries.

Q. 13

The paid up share capital of PKA India Private Limited is rupees 20 crore consisting of rupees 150 lakh fully paid up equity shares of rupees 10 each and 50 lakh fully paid up cumulative preference shares of rupees 10 each. PKA India capital Private Limited and PKA India Teleservices Private Limited are holding 55 lacs and 25 lacs equity shares respectively in PKA

India Private Limited. PKA India capital Private Limited and PKA India Teleservices Private Limited are subsidiaries of Lord Krishna Private Limited referring to the provisions of the Companies Act 2013 examine whether PKA India Private Limited is a subsidiary of Lord Krishna Private Limited? Would your answer be different if Lord Krishna private limited has five out of total 7 director on the board of directors of PKA India Private Limited?

Q. 14

Masons Private Limited is a private limited company as per the articles of association of the company. However, a public company acquired shares in my sons Private Limited thereby making the company message Private Limited a subsidiary of that public company. State the impact of such acquisition of share by a public company on my sons Private Limited.

Q. 15

Anson Ltd. Held equity shares in Booban Ltd. Later on Anson Ltd. Became a subsidiary company of Booban Ltd. Decide under the companies act, 2013 whether it is necessary for Anson Ltd. To surrender the equity shares of Booban Ltd.?

Q. 16

As at 31st March, 2018, the paid up share capital of S Ltd. Is Rs. 10000000 divided into 1000000 equity shares of Rs. 10 each. Of this, H Ltd. Is holding 600000 equity shares and 400000 equity shares are held by others. Simultaneously, S Ltd. Is holding 5% equity shares of H Ltd. Out of which 1% shares are held as a legal representative of a deceased member of H Ltd. On the basis of the given information, examine and answer the following queries with reference to the provisions of the companies act, 2013:

- (i) Can S Ltd. Make further investment in equity shares of H Ltd. During 2018-19?
- (ii) Can S Ltd. Exercise voting rights at Annual general meeting of H Ltd.?
- (iii) Can H Ltd. Allot or transfer some of its shares to S Ltd.?

Q. 17

S Ltd. Acquired 105 paid up share capital of H Ltd. On 15th March 2017. H Ltd. Acquired 55% paid up share capital of S Ltd. On 10th March 2018. H Ltd. On 25th September 2020 decided to issue bonus shares in the ratio of 1:1 to the existing shareholders. Accordingly bonus shares were allotted to S Ltd. Examine under the provisions of the companies act, 2013 and decide.

- (i) The validity of holding of shares by S Ltd. In H Ltd.
- (ii) Allotment of Bonus shares by H Ltd. To S Ltd.

Q. 18

Popular products Ltd. Is company incorporated in India having a total share capital of Rs. 20 crores. The share capital comprises of 12 lakh equity shares of Rs. 100 each and B lakhs preference shares of Rs. 100 each. Delight products Ltd. And happy products Ltd. Hold 2.5 lakh and 3.5 lakh shares respectively in popular products Ltd. Another company cheerful products Ltd. Holds 2.5 lakh shares in popular products Ltd. Jovial Ltd. Is the holding company for all above three companies namely delight products Ltd. Happy products Ltd. Cheerful products Ltd. Can jovial Ltd. Be termed as subsidiary company of popular products Ltd. If it controls composition of directors of popular products Ltd. State, the related provision in the favour of your answer.

Q.20

The paid up share capital of XYZ (private) company Ltd. Is Rs. 20 lakhs consisting of 2,00,000 equity shares of Rs. 10 each fully paid-up. ABC (private) Ltd. And its subsidiary DEF (private) Ltd. Are holding 60,000 and 50,000 shares respectively in XYZ (private) company Ltd. Examine with reference to the provisions of the Companies Act, 2013 whether XYZ (private) company Ltd. Is a subsidiary of ABC (private) Ltd. Would your answer be different if DEF (private) Ltd. Is holding 1,10,000 shares in XYZ (private) company Ltd. And no shares are held by ABC (private) Ltd. In XYZ (private) company Ltd.?

Q.21

The paid up share capital of Advanced Castings private Ltd. Is Rs. One crore consisting of 8,00,000 equity shares of Rs. 10 each fully paid up and 2,00,000 cumulative preference shares of Rs. 10 each fully paid up. Quality Forgings private Ltd. And Supreme engineering private Ltd. Are holding 3,00,000 equity shares and 1,50,000 equity shares respectively in Advanced Castings Private Ltd. Quality Forgings Pvt. Ltd. And Supreme engineering Pvt. Ltd. Are the subsidiaries of Unique Machineries Pvt. Ltd. Examine with reference to the provisions of the Companies Act, 2013 whether Advanced Castings Private Ltd. Is a subsidiary of Unique Machinery Pvt. Ltd. Will your answer be different. If unique Machineries Pvt. Ltd. Controls the composition of Board of Directors of Advanced Casting Private Ltd.?

Q.22

The paid up share capital of AVS private Ltd. Is Rs. 1 crore, consisting of 8 lakh equity shares of Rs. 10 each fully paid up and 2 lakh cumulative preference shares of Rs. 10 each fully paid up. XYZ private Ltd. And BCL private Ltd. Are holding 3 lakh equity shares and 1,50,000 equity shares respectively in AVS private Ltd. XYZ private Ltd. And BCL private Ltd. Are the subsidiaries of TSR private Ltd. With reference to the provisions of the companies Act, 2013 examines whether AVS private Ltd. Is a subsidiary of TSR private Ltd. Would your answer be different if TSR private Ltd. Has 8 out of total 10 directors on the Board of Directors of AVS private Ltd.?

Q.23

The paid up share capital of ABC private Ltd. Is Rs. One crore consisting of 8,00,000 equity shares of Rs. 10 each and 2,00,000 cumulative preference shares of Rs. 10 each, both fully paid up. PQR private Ltd. And MNO private Ltd. Are holding 3,00,000 equity shares and 1,50,000 equity shares respectively in ABC private Ltd. PQR private Ltd. And MNO private Ltd. Are the subsidiaries of UMC private Ltd. Examine with reference to the provisions of the Companies Act, 2013 whether ABC private Ltd. Is a subsidiary of UMC private Ltd. Would your answer be different, if UMC private Ltd. Controls the composition of Board of Directors of ABC private Ltd.

Q.24

The paid up share capital of SAB private Ltd. Is Rs. 1 crore, consisting of 8 lakhs equity shares of Rs. 10 each, fully paid up and 2 lakhs cumulative preference shares of Rs. 10 each, fully paid up. JVN private Ltd. And SARA private Ltd. Are holding 3 lakhs equity shares and 50000 equity shares respectively in SAB private Ltd. JVN private Ltd. And SARA private Ltd. Are the subsidiaries of PQR private Ltd. With reference to the provisions of the companies Act, 2013

examine whether SAB private Ltd. Is a subsidiary of PQR private Ltd.? Would your answer be different if PQR private Ltd. Has 8 out of 9 directors on the board of SAB private Ltd.?

10. WHAT IS ASSOCIATE COMPANY

[Section 2(6)]: In relation to another company, means a company in which that other company has a significant influence, but which is not a subsidiary company of the company having such influence and includes a joint venture company.

The expression "significant influence" means control of at least twenty per cent of total voting power, or control of or participation in business decisions under an agreement.	The expression "joint venture" means a joint arrangement whereby the parties that have joint control of the arrangement have rights to the net assets of the arrangement.	The term "Total Share Capital", means the aggregate of the - (a) Paid-up equity share capital; and (b) Convertible preference share capital.
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------

Q. 19

A limited has entered into a contract with B Limited by which the former will reserve 25% of their output to be sold to B Limited or to a buyer at the at the direction of B Limited. Can be Limited be called an associate company of A limited. Also determine if S Private Limited with the paid up share capital of rupees 45 lacs and annual turnover of rupees 175 lacs is a wholly owned subsidiary of H Limited a listed company. Can S Limited be called a small company?

Q. 20

ABC Ltd. Has allotted equity shares with voting rights to XYZ Ltd. Worth Rs. 15 crores and issued non-convertible debentures worth Rs. 40 crores during the financial year 2019-20. After that total paid up equity share capital of the company is Rs. 100 crores and non-convertible debentures stands at Rs. 120 crores. Define the meaning of associate company and comment on whether ABC Ltd. And XYZ Ltd. Would be called associate company as per the provisions of the companies act, 2013?

11. WHAT IS LISTED COMPANY

As per the definition given in the section 2(52) of the Companies Act, 2013, it is a company which has any of its securities listed on any recognised stock exchange.

Provided that such class of companies,	which have listed or intend to list such class of securities, as may be prescribed in consultation with the Securities and Exchange Board,	shall not be considered as listed companies.
----------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------

12. WHAT IS UNLISTED COMPANY

Unlisted company means company other than listed company.

13. WHAT IS GOVERNMENT COMPANY

[Section 2(45)]: Government Company means any company in which not less than 51% of the paid-up share capital is held by-

(i) the Central Government, or	(ii) by any State Government or Governments, or	(iii) partly by the Central Government and partly by one or more State Governments, and <i>the section includes</i> a company which is a subsidiary company of such a Government company.
--------------------------------	-------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Explanation: For the purposes of this clause, the “paid up share capital” shall be construed as “total voting power”, where shares with differential voting rights have been issued.

Q. 21

43% of the paid up share capital of V4C Limited is held by the central government and 8% is held by the Life Insurance Corporation of India and unit Trust of India which are public institutions. Analyze the definition of government company under the provisions of the Companies Act 2013 and decide whether V4C Limited is a government company

Q. 22

ABC Limited is a company Incorporated under the Companies Act 2013 the paid-up share capital of the company is held as under:

- Government of India 20%
- Government of Andhra Pradesh 20%
- Government of Tamil Nādu to 10%
- Government of Maharashtra 10%

explaining the provisions of Companies Act 2013 state whether the said company be called government company and also state employees of a government company can claim their salaries from Government of India

Q. 23

Central government and government of Maharashtra together hold 40% of the paid-up share capital off MN Limited. A government company also holds 20% of the paid-up share capital in MN Limited.

- (i) PQ Limited is a subsidiary company but not a wholly owned subsidiary of a government company.

Examine with reference to the provisions of Companies Act 2013 whether MN Limited and PQ Limited can be considered as government company.

Q. 24

Grow more Limited is a government company in which the central government and many state government in India are members. The company has recently convened its Annual General Meeting at its registered office. Does the Legislature have any access to the annual reports of such a company? Give your advice

Q. 25

ABC Limited was incorporated on 11th December 2018 as a government company with the main object to provide examination services to other public sector undertaking where the employees are recruited through advertisement. The secretary education informs the Managing Director that there are recent changes with respect to active company tagging identities and verification in companies incorporation rules 2040 comment about applicability of active compliance with respect to ABC Limited a government company

Q. 26

SK infrastructure Ltd. Has a paid-up share capital divided into 6 lakh equity shares of INR 100 each, 2 lakh equity shares of the company are held by central government and 120000 equity shares are held by government of Maharashtra. Explain with reference to relevant provisions of the companies act, 2013 whether SK infrastructure Ltd. Can be treated as government company.

14. WHAT IS FOREIGN COMPANY

[Section 2(42)]: It means any company or body corporate incorporated outside India which—	
(i) has a place of business in India whether by itself or through an agent, physically or through electronic mode; and	(ii) conducts any business activity in India in any other manner.

Q. 27

Actavis Ireland Limited pharma firm incorporated in Ireland

- (i) Has a share transfer office in Kanpur
- (ii) Directors of the company frequently stayed in a hotel in Noida and Mumbai for looking after matters of business, the company does not have any physical office for property in India. As a practicing company secretary, advise under the provisions of Companies Act 2013 whether the company will be treated as having place of business in India?

Q. 28

A group of Indian citizens hold 60% of the paid-up share capital of a foreign company. This group of shareholders claim that since the company was incorporated outside the country. The company is not bound to comply with the provisions of the Companies Act 2013 in relation to its business in India. Examine the validity of such a claim by the group.

Q. 29

Referring to the provisions of the Companies Act 2013, State as to when shell company incorporated outside India be considered as a 'foreign company' within the meaning of Companies Act 2013. Also examining the provisions of the act, state whether in the following cases, the company shall be considered as a 'foreign company':

- (i) A company incorporated outside India as a representative in India, who on behalf of the company merely receives orders from the customers.
- (ii) A company incorporated outside India holds its board meeting and general meetings in India.

Q. 30

Watson Limited a company incorporated in Australia has a place of business through an agent in Mumbai. The agent transacts the business on behalf of the company electronic mode. As regards Watson Limited answer the following:

- (i) Whether Watson Limited shall be called a foreign company within the meaning of companies act, 2013?
- (ii) What are the regulatory requirements under the Companies Act 2013 to be complied with by such a company which has established its place of business in India

Q. 31

Mike limited company incorporated in India having Liaison office at Singapore. Explain in detail meaning of Foreign Company and analysis on whether Mike Limited would be called as Foreign Company as it established a Liaison office at Singapore as per the provisions of the Companies Act, 2013?

Q. 32

Herry Ltd. Is a company registered in Thailand. It has no place of business established in India, yet it is doing online business through telemarketing in India having its main server for online business outside India. State the status of the company under the provisions of the companies act, 2013.

Q. 33

SKP Ltd. (Registered in India) a wholly owned subsidiary company of Herry Ltd. Decided to follow different financial year for consolidation of its accounts outside India. State the procedure to be followed in this regard.

Q. 34

Teresa Ltd. Is a company registered in New York (U.S.A). The company has no place of business established in India, but it is doing online business through data interchange in India. Explain with reference to relevant provisions of the companies act, 2013 whether Teresa Ltd. Will be treated as foreign company.

Q. 35

Explain with reference to the provisions of The Companies Act, 2013, whether the following companies are covered under the definition of "foreign companies".

- (i) Indian citizens incorporated a company in Dubai for the purpose of carrying on business there.
- (ii) A company incorporated in New York, U.S.A., which has a share transfer office at Chennai?

Q. 36

Indian citizens incorporated a company in London for the purpose of carrying on business there. Examine with reference to the relevant provisions of the Companies Act, 2013 whether it is a "Foreign Company". What would be your answer in case the London Company was incorporated by a company registered in India.

Q. 37

Robertson Ltd. is a company registered in Thailand. Although, it has no place of business established in India, yet it is doing online business through telemarketing in India. Whether it will be treated as a Foreign Company under the Companies Act, 2013? Explain.

Q. 38

A Company incorporated outside India having shareholders who are all Indian citizens. Examine and state whether the above company can be considered as 'Foreign Company' under the Companies Act, 2013.

Q. 39

Examine whether the following companies can be considered as 'Foreign Companies' under the Companies Act, 2013:

- (i) A company which is incorporated outside India employs agents in India but has no place of Business in India.
- (ii) A company incorporated outside India having shareholders who are all Indian citizens.
- (iii) A company incorporated in India but all the shares are held by foreigners.

Q. 40

Examine in the light of the provisions of the Companies Act, 2013 whether the following companies can be considered as "Foreign Companies":

- (i) A company incorporated outside India having a share registration office at New Delhi;
- (ii) A company incorporated outside India having shareholders who are all Indian citizens;
- (iii) A company incorporated in India but all the shares are held by foreigners.

Also examine whether the above companies can issue Indian Depository Receipts under the provisions of the Companies Act, 2013?

Q. 41

In the light of the provisions of the Companies Act, 2013 explain whether the following Companies can be considered as a 'Foreign Company':

- (i) A Company which has no place of business established in India, yet, is doing online business through telemarketing in India.

(ii) A Company which is incorporated outside India employs agents in India but has no place of business in India.

(iii) A Company incorporated outside India having shareholders who are all Indian citizens.

Q. 42

Mr. Ziyun an Indian citizen holds 25% of the paid up capital of Laurel Steven Limited, a company which was incorporated in Singapore with a paid up capital of 10 million Singapore Dollars. Swaraj Limited a company registered in India holds 30% of the paid up capital of Laurel Steven Limited. Laurel Steven Limited has recently established a share transfer office at New Delhi. The Company seeks your advise as to what formalities it should observe as a foreign company under Companies Act, 2013.

Q. 43

A company incorporated in Malaysia, has established its place of business at Mumbai, what documents are required to be furnished on such establishment of business in India under the Companies Act.

Q. 44

Indian citizens incorporated a company in U.K. for the purpose of carrying on business there. Examine with reference to the relevant provisions of the Companies Act, 2013 whether it is a 'Foreign Company'. What would be your answer in case the U.K. company was incorporated by a company registered in India'.

Q. 45

A company incorporated in Singapore has established its place of business at Chennai. State the documents which are required to be furnished on such establishment of business in India under the Companies Act, 2013 and the authorities to whom such documents are to be furnished.

Q. 46

DEJYAS Company Limited incorporated in Singapore, desires to establish a place of business at Mumbai. You being a practicing Chartered Accountant has been appointed by the company as a liaison officer, for compliance of legal formalities on behalf of the company. Examining the provisions of the Companies Act, 2013 state the documents you are required to furnish on behalf of the company, on the establishment of a place of business at Mumbai.

Q. 47

Qinghai Huading Industrial Company Ltd., incorporated in China established a place of business at Mumbai. The Charter/Documents constituting the Company is in Mandarin Chinese (Chinese local language). It is required inter alia to file a certified translation of above documents with the Registrar of Companies in India. Who can authenticate the translated charter/documents as per the provisions of the Companies Act, 2013 and Rules made there under governing foreign companies in case such translation is made at Mumbai?

Q. 48

Galilio Ltd. is a foreign company in Germany and it established a place of business in Mumbai. Explain the relevant provisions of the Companies Act, 2013 and rules made thereunder

relating to preparation and filing of financial statements, as also the documents to be attached along with the financial statements by the foreign company.

(Q) State briefly the requirements relating to filing of accounts with the Registrar of Companies by the Foreign Company in respect of Global Business as well as Indian Business.

Q. 49

The liability of members of Style Limited, a company incorporated in Singapore, is limited. The company plans to start a place of business in Mumbai from 1st Dec., 2016. It has taken an office space in Andheri (West), Mumbai for that purpose. The person who is to take charge of Mumbai Office seeks your advice regarding the provisions of the Companies Act, 2013, in respect of displaying of the company's name etc. at its Mumbai office as well as in its business letters and other documents. Advise him with reference to the provisions of the Companies Act, 2013 governing foreign companies.

Q. 50

X Inc is a company registered in UK and carrying on Trading Activity, with Principal Place of Business in Chennai. Since the company did not obtain registration or make arrangement to file Return, the State GST Officer having jurisdiction, intends to serve show cause notice on the Foreign Company. As Standing Counsel for the Department, advise the GST Officer on valid service of Notice.

Q. 51

ABC Limited, a foreign company failed to deliver some desired documents to the Registrar of Companies as required under Section 380 of the Companies Act, 2013. State the provisions of penalty prescribed under the said Act, which can be levied on ABC Limited for its failure.

Q. 52

Ronnie Coleman Ltd., a foreign Company failed to deliver some documents to the Registrar of Companies as required under Section 380 of the Companies Act, 2013. State the provisions of Penalty prescribed under the Act, which can be levied on Ronnie Coleman Ltd. for its failure to deliver the documents.

Q. 53

In the light of the provisions of the Companies Act 2013 examine whether the following companies can be considered as a foreign company

Q. 54

Red Stone Limited is a company registered in Singapore the board of director needs meets and executes business decisions at their board meeting held in India

15. WHAT IS CHARITABLE COMPANY

Section 8 of the Companies Act, 2013 deals with the formation of companies which are formed to

<ul style="list-style-type: none"> • promote the charitable objects of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment etc. 	<ul style="list-style-type: none"> • Such company intends to apply its profit in 	<ul style="list-style-type: none"> • promoting its objects and 	<ul style="list-style-type: none"> • prohibiting the payment of any dividend to its members.
It operates under license from Central Government.	Charitable company may or may not use suffix after its name.	Central Government can revoke license.	Post revocation, such company may be merged with other similar nature charitable company, or it may be wound up or it may be converted into a commercial company.

Q. 55

What do you mean by “Companies with charitable purpose” (section 8) under the Companies Act 2013? Mention the conditions of the issue and revocation of the licence of such company by the government.

Q. 56

What are the significant points of Section 8 Company which are not applicable for other companies? Briefly explain with reference to provisions of the Companies Act, 2013.

Q. 57

A company registered under Section 8 of the Companies Act, 2013, earned huge profits during the financial year ended on 31st March 2018 due to some favourable policies declared by the Government of India and implemented by the company. Considering the development, some members of the company wanted the company to distribute dividends to the members of the company. They approached you to advise them about the maximum amount of dividend that can be declared by the company as per the provisions of the companies Act, 2013. Examine the relevant provisions of the Companies Act, 2013 and advise the members accordingly.

Q. 58

Mr. V along with six other persons desires to float a company for charitable purposes, as permissible under section 8 of the companies act, 2013. He seeks your advice about the procedure to be followed to give effect to the above proposal. Advise him.

Q. 59

A group of individuals intend to form a club namely “Budding Pilots Flying Club’ as Ltd. Liability company to impact classroom teaching and aircraft flight training to trainee pilots. It was decided to form a limited liability company for charitable purpose under Section 8 of the companies act, 2013 for a period of ten years and thereafter the club will be dissolved and the surplus of assets over the liabilities, if any will be distributed amongst the members as a usual procedure allowed under the companies act. Examine the feasibility of the proposal and advise the promoters considering the provisions of the companies act 2013.

16. WHAT IS DORMANT COMPANY

Section 455: Where a company is formed and registered under this 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 company may make an application to the Registrar for obtaining the status of a dormant company.

“Inactive company” means a company which has not been carrying on any business or operation or has not made any significant accounting transaction during the last two financial years or has not filed financial statements and annual returns during the last two financial years.

“Significant accounting transaction” means any transaction other than—
 (i) payment of fees by a company to the Registrar.
 (ii) payments made by it to fulfil the requirements of this Act or any other law.
 (iii) allotment of shares to fulfil the requirements of this Act; and
 (iv) payments for maintenance of its office and records.

Q. 60

A group of persons want to form a company for a future project and acquired the status of a dormant company the group seeks your advice about the procedure and the conditions to be complied with state the privileges and exemptions available to such a company under the provisions of Companies Act 2013

Q. 61

Weak Limited is interested in obtaining the status of dormant company as they have not been carrying on any operation for the last two years. Explain the conditions to be fulfilled for applying to be a dormant company

17. WHAT IS NIDHI COMPANY

Section 406(1): “Nidhi” or “Mutual Benefit Society” means a company which the Central Government may, by notification in the Official Gazette, declare to be a Nidhi or Mutual Benefit Society, as the case may be.

Q. 62

M/s Kaberi mutual benefits Nidhi Limited is incorporated as a Nidhi company under the Companies Act, 2013. The board of director’s of the company have decided to appoint Mr. Raja (a minor) as a member of the company. Referring to the applicable provisions of the Companies Act 2013 read with rules thereunder advise them.

Q. 63

Soma Nidhi Limited proposes to reappoint Mr. X, a director who has completed a term of 10 consecutive years as a director of the Nidhi.

State your views the validity of the above proposal with reference to Nidhi rules 2014 formulated under Companies Act 2013.

Q. 64

Raghavi and her 6 more relatives and friends want to incorporate a Nidhi company. They seek your advice on the following issues with respect to the formation of company:

- (i) Whether Nidhi company can be formed as a private company. Is there any specific law for Nidhi companies?
- (ii) Whether the approval of Reserve Bank of India is required?
- (iii) Whether Nidhi is allowed to raise funds through issue of equity shares and preference shares?
- (iv) Whether Nidhi is allowed to carry on business other than the business of borrowing or lending in its own name?

As a practicing company secretary, advise with reference to the provisions of Companies Act 2013.

18. WHAT IS PUBLIC FINANCIAL INSTITUTION

<p>By virtue of Section 2(72) of the Companies Act, 2013, the following institutions are to be regarded as public financial institutions:</p>				
<p>(i) the Life Insurance Corporation of India, established under the Life Insurance Corporation Act, 1956;</p>	<p>(ii) the Infrastructure Development Finance Company Limited,</p>	<p>(iii) specified company referred to in the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002;</p>	<p>(iv) institutions notified by the Central Government under section 4A(2) of the Companies Act, 1956 so repealed under section 465 of this Act;</p>	<p>(v) such other institution as may be notified by the Central Government in consultation with the Reserve Bank of India:</p>
<p>Conditions for an institution to be notified as PFI:</p> <p>No institution shall be so notified unless—</p>				
<p>(A) it has been established or constituted by or under any Central or State Act other than this Act or the previous Companies Law; or</p>		<p>(B) not less than fifty-one per cent of the paid-up share capital is held or controlled by the Central Government or by any State</p>		

	Government or Governments or partly by the Central Government and partly by one or more State Governments.
--	------------------------------------------------------------------------------------------------------------

19. WHAT IS PRODUCER COMPANY

Section 378A(l) "Producer Company" means a body corporate having objects or activities specified in section 378B and registered as Producer Company under this Act or under the Companies Act, 1956.

Section 378B Objects of Producer Company
The objects of the Producer Company shall relate to all or any of the following matters, namely:—

Production, harvesting, procurement, grading, pooling, handling, marketing, selling, export of primary produce of the Members or import of goods or services for their benefit: Provided that the Producer Company may carry on any of the activities specified in this clause either by itself or through other institution;	Processing including preserving, drying, distilling, brewing, vinting, canning and packaging of produce of its members;	Manufacture, sale or supply of machinery, equipment or consumables mainly to its members;	Providing education on the mutual assistance principles to its members and others
Rendering technical services, consultancy services, training, research and development and all other activities for the promotion of the interests of its members;	Generation, transmission and distribution of power, revitalisation of land and water resources, their use, conservation, and communications relatable to primary produce;	Insurance of producers or their primary produce;	Promoting techniques of mutuality and mutual assistance
Welfare measures or facilities for the benefit of Members as may be decided by the Board	Any other activity, ancillary or incidental to any of the activities referred to in above clauses or other activities which may promote the principles of mutuality	Financing of procurement, processing, marketing or other activities specified in above clauses which include extending of credit facilities or any other financial services to its members.	

	and mutual assistance amongst the Members in any other manner.	
--	----------------------------------------------------------------	--

Q. 65

Explain the provisions under the Companies Act for amendment of articles of association of a producer company?

Q. 66

Is it legally necessary for the every producer company to appoint a whole time secretary under the provision of the companies Act, 2013.

Q. 67

Under provisions of Companies Act, 2013, relation to producer company, examine whether the office of director of such company shall fall vacant in the following circumstances:

- (a) X, a director of P.K.R Ltd. A producer company has made a default in payment of loan taken from a company and default continues for 60 days.
- (b) Z, a director of the above company could not call the Annual General meeting for the company due to some natural calamity which occurred three days before the schedule date.

Q. 68

KPS india producer company limited having an average annual turnover exceeding six crore in each of the three consecutive financial year. The company has to appoint a company secretary. Advise the company by referring to the provisions of the companies act, 2013 as applicable to producer company relating to such appointment.

Q. 69

A three year old producer company wants to donate some amount. Advise the company as to how and for what purposes such donation can be made. What are the monetary restrictions in this regard? In this context you are also informed that the net profit of the producer company for the last accounting year was Rs. 12 lakhs.

Q. 70

Directors of ABC Ltd. Want to incorporate a producer company. ABC Ltd. Itself is in the production and harvesting business. You are the company secretary of ABC Ltd. You are requested to advise the Board of ABC Ltd. About incorporation of such producer company and set out its objectives as per relevant provisions of the Companies Act.