

INCORPORATION

1. SECTION – 3 (FORMATION OF COMPANY)

PURPOSE OF COMPANY SHOULD BE LAWFUL	POSSIBLE FORMS OF COMPANIES – PUBLIC, PRIVATE AND OPC	OPC IS BASICALLY A PRIVATE COMPANY	COMPANY MAY HAVE LIMITED OR UNLIMITED LIABILITY	LIMITED LIABILITY CAN ALSO BE IN TWO TYPES: - LIMITED BY SHARES AND LIMITED BY GUARANTEE
-------------------------------------	---	------------------------------------	---	--

2. SECTION – 3A (MEMBERS SEVERALLY LIABLE IN CERTAIN CASES)

MINIMUM NUMBERS OF MEMBERS SHOULD NEVER COME DOWN	IF COME DOWN, INCREASE BACK IN SIX MONTHS	IF NOT INCREASED, REMAINING MEMBERS PERSONALLY LIABLE
---	---	---

4. Section – 7 (INCORPORATION OF COMPANY)

Application shall be filed with jurisdictional registrar.	Application form is spice+	SPICE stands for simplified proforma for incorporating companies electronically.	Specified Documents to be submitted
identity proof can be any of the following: - (a) voter ID card and PAN (b) passport and PAN (c) driving license and PAN (d) Aadhar and PAN	Address proof can be any of the following: - (a) current or last two months electricity bill (b) current or last two months telephone bill (c) current or last two months gas bill (d) current or last two months water bill (e) current or last two months bank statement	If everything is verified and found correct, certificate of incorporation shall be issued by registrar in form no INC11 which also carries PAN & TAN issued by income tax department.	Certificate of Incorporation also contains 21 digits corporate identity number
9. All documents and information related to incorporation shall be preserved till dissolution.	10. If incorporation was done by submitting false information or wrong information, tribunal may issue prescribed orders.	11. Person who gave wrong information shall be liable under section 447.	12. An opportunity of being heard must be given before any action.

5. DOCUMENTS TO BE SUBMITTED FOR INCORPORATION

(A) Memorandum and articles duly signed

(B) Declaration in inc8 by CA or CMA or CS or Advocate declaring compliance of registration rules.

(C) Declaration from each subscriber and first directors that they have not been convicted in incorporation of companies any time in last five years and they have not been convicted for fraud or misfeasance or breach of duty anytime in last five years and information submitted in spic+ is absolutely true.

(D) Correspondence address or proposed registered office address

(E) Name, surname, family name, residential address, nationality, occupation, PAN or DIN & other prescribed particulars of each subscriber with production of identity and address proof.

(F) Name, surname, family name, residential address, nationality, occupation, PAN or DIN & other prescribed particulars of each first director with production of identity and address proof.

(G) Particulars of interest of first director in other entities in form no DIR12

6. STRUCTURE OF CIN (21 DIGITS)

Part 1	Part-2	Part-3	Part-4	Part-5	Part-6
Listing Status of the company – L=Listed U=Unlisted	Industry Code of the company – 5 digit numeric code	State Code – two characters	Incorporation Year – four digit year of incorporation	Type of Ownership – three characters company code which can be as PLC, PTC, OPC etc.	Registration Number of the Company – six digits

7. ORDERS TO BE ISSUED BY NCLT IF INCORPORATION WAS DONE USING FALSE INFORMATION

(a) to regulate management of company as per prescribed orders	(b) to make limited liability unlimited	(c) to remove name of company from register of company	(d) to order winding up of company	(e) to pass any other orders as may be found necessary
--	---	--	------------------------------------	--

8. Section 9 (EFFECT OF REGISTRATION)

1. Upon incorporation, subscribers will become members of the company, company will become a body corporate.

2. Being body corporate means it will have perpetual succession, separate legal identity, separate property etc.

9. Section 10A (COMMENCEMENT OF BUSINESS ETC)

1. This section applies only on company limited by shares.

2. Commencement of business and borrowing powers cannot be exercised without fulfilling prescribed 2 requirements.

(a) declaration by directors in form no INC-20A that each subscribers has paid full value on his share, to be filled with ROC within 180 days from incorporation

(b) ROC filing for registered office in form no INC-22 within 30 days of incorporation.

3. in case of non compliance following punishment will apply"-

(a) company will pay Rs. 50000

(b) officers and default will pay Rs. 1000 per day subject to maximum of Rs. 100000.

4. If it is found that company has not commenced any business operations and has not filled above forms, removal of name can be initiated by registrar.

10. Section 11 (COMMENCEMENT OF BUSINESS ETC)

Omitted with effect from 29th may 2015.

QUESTIONS

Q. 1

Promoters right to receive expenses preliminary expenses should have been enshrined in the articles of association explain

Q. 2

The promoters of welcome company Incorporated on 8th June 2015 has entered into a contract with A on 10th May 2015 for supply of goods. After incorporation, the company does not want to proceed with the contract. As a company, advisor the management of the company referring to the provisions of Companies Act, 2013.

Q. 3

What is meant by 'Pre-Incorporation Contracts'? can these contracts be enforced by the prospective company after its incorporation against the third parties with whom the promoters had entered into certain contracts? Explain

Q. 4

Who shall be considered as promoter according to the definition given in the companies act, 2013? Explain.

Q. 5

K Ltd. Was in the process of incorporation. Promoters of the company signed an agreement for the purchase of certain furniture for the company and payment was to be made to the suppliers of furniture by the company after incorporation. The company was incorporated, and the furniture was received and used by it. Shortly after incorporation, the company went into liquidation and the debt could not be paid by the company for the purchase of the above furniture. As a result, supplier sued the promoters of the company for the recovery of money.

Examine whether promoters can be held liable for the payment under the following situations:

- (i) When the company has already adopted the contract after incorporation?
- (ii) When the company makes a fresh contact with the suppliers in substitution of pre incorporation contracts?

Q. 6

Decide, under the companies Act, 2013 whether Mr. Prabhu can incorporate a new company using the phrase "Electrol Trust" with the name of the company.

Q. 7

The XYZ Traders Association was constituted by four joint Hindu families consisting of 25 major and 2 minors members. The association was carrying on the business of trading as retailers with the object for acquisition of gains. The association was not registered as a company under the companies act, 2013 or any other law.

State whether the XYZ Traders Association is having any legal status?

Will there be any change in the status of this association if the members of the XYZ Traders Association subsequently were reduced to 18?

Q. 8

Which documents are required to be filed with the registrar of companies at the time of registration of a company under the provisions of the companies act, 2013?

Q. 9

Mahima Ltd. Was incorporated by furnishing false information. As per the companies act, 2013. State the powers of the Tribunal (NCLT) in this regard.

Q. 10

Mr. A and B are partners in a firm AB & Co. since the last 10 years. Now their business has crossed Rs. 20 crores and they want to form a private limited company to take over the firm's business and to expand it at large scale. They approached their auditor to assist to incorporate a company in the name of AB Trading Private Ltd. Explain in brief what documents required to be filed with the Registrar of Companies?

Q.11

UMC Ltd. Has only 7 shareholders having fully paid up shares. On 30th April, 2017, all the shares of X (a shareholder of the company) are sold to Y (another shareholder of the company) in an auction by the order of the court. Z (a shareholder of the company) was in USA for a business trip from January and thus he was not aware of the developments. The company continues to carry on its business thereafter. In December, 2017, the company borrowed a sum of Rs. 5 lac from the Unique Bank. Later the company was wound up and the Assets of the company were not sufficient for the payment of its liabilities. The bank filed a suit against Y and Z for recovery of the said loan from them. Decide the liabilities of Y and Z under the provisions of companies Act, 2013. Would your answer be the same. If the said loan was taken in the month of March, 2017?

Q.12

Sunrise Ltd. Submitted the documents for incorporation on 5th October, 2014. It was incorporated and certificate of incorporation of the company was issued by the Registrar on 20th October, 2014. The company on 14th October, 2014 entered into a contract which created its contractual liabilities. The company denies the said liability on the ground that company is not bound by the contract entered into prior to issuing of certificate of incorporation. Decide under the provisions of the companies act, 2013 whether the company can be exempted from the said contractual liability.

Q.13

Before the incorporation of the company, the promoters of the company entered into an agreement with Mr. Jainson to buy an immovable property on behalf of the company. After incorporation, the company refused to buy the said property. Advise Mr. Jainson whether he has any remedy under the provisions of the Companies Act?

Or

Before the incorporation of the company, the promoters of the company entered with Mr. Jainson to buy an immovable property on behalf of the company. After incorporation, the company refused to buy the said property. Advise Mr. Jainson whether he has any remedy under the provisions of the companies act?

MOA & AOA

1. SECTION – 4 (MEMORANDUM)

MEMORANDUM MEANS MEMORANDUM OF ASSOCIATION	NUMBER OF CLAUSES IN MEMORANDUM IS GENERALLY FIVE(5)	NUMBER OF CLAUSES IN MEMORANDUM OF OPC IS SIX(6)
in case of company limited by guarantee having no share capital, it cannot distribute its profits to a non members.		

2. CLAUSES OF MOA

Name clause – complete name with prefix, prefix can be limited or private limited or OPC private limited, section 8 company and government company exempted	State clause – name of the state in which registered office is situated or will be situated	Object clause – main objective of company and incidental objectives
Liability clause – whether liability is limited or unlimited, if limited whether limited by shares or by guarantee	Capital clause – amount of authorized capital with breakup of numbers of shares and amount per share and numbers of share subscribed by each of the subscriber	Nominee clause – applicable only for OPC, name of nominee

3. NAME RULES

Name should not be identical or resembling with existing company or registered trade mark, should also not be undesirable in the eyes of central government, should also not constitute and offence, should also not give an impression of government company, should also not contain prohibited words or restricted words without prior permission of central government.	Name reservation can be done for a new company in form spice+ part a, which shall be reserved for the period of twenty (20) days subject to extension by central government.	Name reservation can be done for an existing company to change its name in form run, which shall be reserved for the period of sixty(60) days subject to extension by central government.
---	--	---

If name was applied by providing wrong information or false information, reservation may be cancelled and maximum penalty rupees one lakh(1,00,000)	If name was applied by providing wrong information or false information and company is already incorporated, registrar may either order the name change to be done in three months by passing ordinary resolution or may strike off name of company or may file petition for winding up.
---	--

4. FORMATS OF MOA PRESCRIBED BY COMPANY LAW

TABLE A – company limited by share	TABLE B – company limited by guarantee without share capital	TABLE C – company limited by guarantee with share capital	TABLE D – unlimited company without share capital	TABLE E – unlimited company with share capital
--	--	---	---	--

5. Section – 5 (ARTICLES)

articles means article of association	they contains regulations for management of company.	they can be in the form prescribed by central government or can be specially drafted.	articles can be entrenched which means making them more difficult than company law itself.
entrenchment can be done by special resolution in public company and unanimous resolution in private company.	entrenchment can be done either at the time of incorporation or any time later.	if entrenchment is done any time later, MGT14 should be filed within thirty (30) days.	

6. FORMATS OF AOA PRESCRIBED BY COMPANY LAW

TABLE F – company limited by shares	TABLE G – company limited by guarantee with share capital	TABLE H – company limited by guarantee without share capital	TABLE I – unlimited company with share capital	TABLE J – unlimited company without share capital
---	---	--	--	---

7. Section – 6 (ACTS TO OVERRIDE MEMORANDUM, ARTICLE ETC)

Authority of company law is supreme over memorandum, articles, agreement, resolutions or any documents belonging to company.	In case of any inconsistency, company law will prevail.
--	---

8. Section 10 (EFFECT OF MEMORANDUM AND ARTICLES)

1. Upon incorporation, memorandum and article will bind company and its members.	2. All insider and outsiders must have knowledge and must fulfil requirements of memorandum and articles.	3. Money payable by subscribers as specified in memorandum or articles shall be a debt due from him.
--	---	--

9. Section 13 (ALTERATION OF MEMORANDUM)

1. Basic requirement for alteration of memorandum is special resolution.	2. Name of company can be altered only after approval of central government, which is applied in form RUN.	3. Central government approval is not needed for name change if the name change only requires addition or deletion of limited or private limited word.
4. New name shall be effective only upon issuance of certificate of incorporation by ROC.	5. Address of registered office from one state to another can be altered subject to following conditions:-	6. Shifting from one state to another is not permitted if any inquiry, inspection or investigation spending.
7. Object can be altered by passing special resolution but there should not be any un utilized amount obtained through public offer.	8. If there is any un utilized amount obtained through public offer, object can be altered only after fulfilment of following conditions. (a) notice in vernacular newspaper. (b) opportunities of exit for dissenting shareholders. (c) no objection certificate from SEBI	9. Any alteration made under this section shall have effect only if it is processed by registrar of company.

10. SHIFTING OF REGISTERED OFFICE FROM ONE STATE TO ANOTHER

- (a) Application to regional director in form no INC-23.
- (b) Proposed memorandum must be attached.
- (c) Minutes of meetings approving such alteration must be attached.
- (d) Board resolution approving such alteration must be attached.
- (e) List of creditors and debenture holders not older than one month must be attached.

(f) Declaration by two directors out of whom one should be managing director and company secretary stating that the detail of creditors and debenture holder is correct, no employee shall be removed because of such shifting and communication to chief secretary of the state is done.

(g) List of creditor and debenture holders shall be kept at registered office open for inspection.

(h) Advertisement in vernacular newspaper in form no INC-26 in the existing state.

(i) Copy of news paper advertisement to be submitted with central government.

(j) Notice to every debenture holder, creditors, SEBI and sectoral regulator must be given.

(k) In case of no objections or if there are objections, when they are settled, final order shall be issued within 60 days.

(l) ROC filing of the final order shall be done in form no INC-28 in 30 days.

11. SECTION 14 (ALTERATION OF ARTICLE)

1. Basic requirement for alteration of articles is special resolution.	2. If the alteration is to convert public company into a private company, it must be done after central government approval. (Earlier the approval was given by NCLT and pending application still remaining with NCLT shall be dealt by NCLT itself.	3. ROC filing for such alteration shall be done in form no INC-27.
--	---	--

12. Section 15 (ALTERATION OF MEMORANDUM OR ARTICLES TO BE NOTED IN EVERY COPY)

1. Every alteration done in memorandum or articles shall be noted in every existing copy of memorandum and articles.	2. In case of non-compliance following punishment will apply: (a) company will pay Rs. 1000 for every such copy. (b) officer in default will pay Rs. 1000 for every such copy.
--	--

13. Section 16 (RECTIFICATION OF NAME OF COMPANY)

1. Name can be rectified upon central government order or by company on its own motions.	2. Central government can order name change either upon complaint by someone or suo-motu.	3. If it is a matter of complaint, complaint can be filed only within 3 years from the date of incorporation.	4. Upon central government order, name change must be done within 3 months.
5. If name change is done without central government order, special resolution is needed under section 13, however, if name change is done after central government order, ordinary resolution is sufficient under this section.			
6. ROC filing shall be done within 15 days.		7. In case of non-compliance punishment is as follows:- (a) company will pay Rs. 1000 per day. (b) officer in default will pay minimum Rs. 5000 and maximum Rs. 100000.	

14. Section 16 (RECTIFICATION OF NAME OF COMPANY)

1. Name can be rectified upon central government order or by company on its own motions.	2. Central government can order name change either upon complaint by someone or suo-motu.	3. If it is a matter of complaint, complaint can be filed only within 3 years from the date of incorporation.	4. Upon central government order, name change must be done within 3 months.
--	---	---	---

15. Section 17 (COPIES OF MEMORANDUM, ARTICLE ETC TO BE GIVEN TO MEMBER)

1. If a member request for copy of memorandum, article, agreement or resolution, it shall be provided within 7 days.	2. It shall be a paid request.	3. In case of non compliance punishment is as follows: (a) company will pay Rs. 1000 per day subject to maximum of Rs. 100000 (b) officer in default will pay Rs. 1000 per day subject to maximum of Rs. 100000.
--	--------------------------------	--

QUESTIONS**Q. 1**

With the approval of the board, an amount of Rs. 50 crore was spent by speed Jet Limited in producing a commercial film, not covered under its object clause. The film was a complete flop and the company lost an amount of Rs. 40 crores. Some of the members of the company objected to such Investments not covered by the object clause of the company. They filed a suit in the NCLT of law making the directors personally responsible and to make good the loss. Will they succeed support your answer with reason?

Q. 2

Surprise Limited was incorporated under the Companies Act 2013. The memorandum of association of the company in its object clause stated that the company was established to make and sell or to carry on business of mechanical engineers and general contractors. The company entered into a contract with prominent Limited a firm of railway contractors to finance the construction of railway line in Mumbai. The contract was ratified by the shareholders in General Meeting. Subsequently the contract was repudiated by the company on the ground that the contract was ultra vires the object clause. Prominent Limited filed case claiming damages for the breach of contract.

Explaining the meaning of doctrine of Ultra virus decide whether prominent Limited will succeed.

Q. 3

A company wants to include a provision in its articles of association by altering them to limit the company's share capital to a fixed amount can I do so will your answer be different if 100% shareholder agree for such alteration

Q. 4

Semon Limited a strategic investor was introduced in Raybon private limited to bring the new technology or investment. Such strategic investor wishes to protect its invested in the company. Advice its interest through Articles of Association of the company.

Q. 5

The paid-up capital of X Limited is Rs. 10 crore and reserve and surplus are negative (due to huge losses since previous few years) amounting to Rs. 300 crores. To pay the dues to creditors, the board of directors passed the resolution for borrowing of Rs. 50 crore and got funded through financial institution in term of medium-term loan for 3 years. Entire amount was utilised to pay the debts.

The financial institution when you got the information that such Act was ultra vires transaction, filed a case against directors of the company. The plea of directors was that shareholders and directors have limited liability and doctrine of indoor management is applicable. Therefore, they are not personally liable personally liable. comment

Q. 6

A Registered office was shifted from one state to another. A labour litigation was pending before the NCLT. So the employees objected to transfer. Whether the objection of the employees is sustainable

Q. 7

The secretary of a company issued share certificate to 'Prem' under the company's seal with his own signature and the signature of a director forged by him. 'Prem' borrowed money from 'Amar' on the strength of the certificate. 'Amar' wanted to realise the security and requested the company to register him as a holder of the shares. Explain whether 'Amar' will succeed in getting the share registered in his name. Explain with the help of doctrine of 'indoor management' in brief.

Q. 8

What is the effect of the registration of the memorandum of association of a company on:

- (i) the subscriber of the memorandum
- (ii) such other person as may from time to time become members of the company
- (iii) the company and
- (iv) outsiders dealing with the company

Q. 9

Ms. SUCHANDA has entered into the transaction with GLAMOUR Ltd. for a contract value of rupees 40 lacs. The articles of association and join that contract above rupees 10 lacs should be approved by board meeting Mr. Dhuruv, an officer of the company produces forged documents to her, which show a resolution having been passed in board meeting approving the contract. Later forgery comes to light MS. Suchanda pleads that she is protected by Doctrine of Indoor Management discuss

Q. 10

Board of directors of Bright Ltd. Decides to change the name of the company to shine Ltd. Certain members of the company object to the board's decision to change the name of the company on the ground that the change will affect their rights. Examining the provisions of the companies act, 2013, state:

- (i) The implications of change in name.
- (ii) Whether the objection of the members be tenable?

Q. 11

Nice Ltd. Proposes to alter its liability clause or memorandum of association. Referring to the provisions of the companies act, 2013 advise the company.

Q. 12

'Alteration of capital clause in memorandum of association is a pre-condition to restructuring the capital structure of the company' – Elaborate the statement mentioning relevant provisions of the companies act, 2013 on types of alterations of capital clause.

Q. 13

Decent Dealings Ltd. Wants to shift its registered office from 21, Sadashiv Peth, Pune to 16, Nagindas Master Road. Mumbai. State the procedure to carry out this intention of the

Board considering the fact that the state of Maharashtra has two registrars of companies one at Pune and other at Mumbai.

Q. 14

Aman Ltd. Has resolved at its annual General Meeting to shift its registered office from Mumbai to some other place in the state of Maharashtra, which falls in the Jurisdiction of other Registrar of Companies. In terms of section 12, Aman Ltd. Filed e-form INC 23 with regional director along with enabling fee and the following documents.

- (i) Certified copy of minutes of the annual general meeting: and
- (ii) Certified copy of newspaper advertisement

After scrutiny of the filed form, the regional director rejected the request of Aman Ltd. In terms of provisions of Section 12(5), what remedy is available to Aman Ltd.?

Q. 15

The principal business of Grow Fast Ltd. Was the acquisition of vacant plots of land and to build / erect houses. In the course of transacting the business, the chairman of the company acquired the knowledge of arranging finance for the development of land. Grow Fast Ltd. Introduced a financier to another company Ajay Ltd. And received an agreement fee of Rs. 2 lakh for arranging the finance. The memorandum of association of the company authorizes the company to carry on any other trade or business which the opinion of the board of directors can be advantageously carried on by the company in connection with the company's general business. Referring to the provisions of the companies act, 2013, examine the validity of the contract carried out by Grow Fast Ltd. With Ajay Ltd.

Q. 16

Indus Ltd. Has changed its name. there is no alternation in the constitution or legal status of the company. The fact of alternation of name was not brought to the notice of the Tribunal. The company has the power to execute a decree in its old name. has the company right to execute a decree in its new name after change of name?

Q. 17

Abha Ltd. Was incorporated on 15th March 2012. A company with identical name and similar objects was incorporated on 5th August 2013. On account of similarity of name. Abha Ltd. I.e. the company which was previously registered, filed a petition on 15th April, 2014 with the central government seeking issue of direction for change of name by the later company so that its business interest is protected. On 15th August 2014, the central government sent an order to the later company to change its name. examine the aforesaid case and the validity of the order of the central government.

Q. 18

Explain the following quoting relevant case law, if any:

Smart Ltd. Wants to include a provision in the articles of association by altering it to limit the company's share capital to a fixed amount. Can it do so? Will your answer be different if 100% shareholders agree for such alteration?

Q. 19

Priya Ltd. Has passed a resolution in the general meeting of the company for alteration of articles of association, thereby adopting new set of articles of association by following the statutory procedure in accordance with the provisions of the companies act, 2013. In the connection, answer the following.

- (i) What are the implications of adoption of new articles of association?
- (ii) Draft a specimen resolution with explanatory statement for alteration of the articles and adoption of new set of articles of association.

Q. 20

Rise Ltd. Was incorporated under the provisions of the companies act, 2013 and certificate of incorporation was issued by the registrar of companies (ROC), new Delhi. Due to inadvertence, the name of the company was found to be similar to the name of another company already registered with the ROC. The ROC on knowing this fact serves a notice upon the company for rectification of the name. referring to the provisions of the act, answer the following.

- (i) What action shall the company take in response to the notice served upon the company by the registrar of companies?
- (ii) What will be the position in case the directors of the company sup moto apply to the central government for rectification of name of the company?
- (iii) What are the implications of rectification of name of the company on the contracts already entered into by the company? Also, state whether the change / rectification shall result in the dissolution of the company.

Q. 21

ABC Ltd. Has altered its name from BCD Ltd. To ABC Ltd. However, the fact of alteration of name of the company was not brought to the notice of NCLT. Please advise the company ABC Ltd. Whether it has a right to execute a decree in its new name after the change of name.

Q. 22

Glamour Rise Ltd. Wished to change its registered office from one state to another state for which it is in the process of calling an extra ordinary general meeting and pass resolution thereat. There is no secretary in the company Mr. Sumana , Deputy General Manager (Finance) of the company has approached you, as a practicing company secretary about the material facts to be set out in the statement to be annexed to the notice of the company. Advice Mr. Sumana with reference to the provisions of the companies act, 2013.

Q. 23

The majority of the shareholders of kasi Textile private Ltd. Passed a special resolution to alter its articles of association and gave the directors a power to require any shareholder who is doing competing business with that of the company's business to transfer his shares. Swaroop, who is carrying on a competing business, challenged the validity of the alteration. Decide whether Swaroop will succeed in the light of the provisions of the companies act, 2013 and decide case law.

Q. 24

X, an employee of BG Ltd. Is aggrieved by the decision of shifting of the registered office of the company from the state of Uttar Pradesh to Haryana. He has filed a public interest litigation (PIL) regarding the same, considering that the business of the company will be severely affected by the said decision of shifting of registered office. In the light of decided case laws, examine the strength of argument raised in the PIL.

Q. 25

‘Allowing alteration of Registered office address from one state to another state involves exercise of balanced discretion by the concerned authority’. Elucidate this statement with reference to the provisions of the companies act, 2013 and applicable case law, if any.

Q. 26

What is the importance of registered office of a company? State the procedure for shifting of registered office of the company from one state to another state under the provisions of the companies act, 2013.

Q. 27

VD Company Ltd. Is registered in Mumbai within the jurisdiction of the Registrar of companies. Pune the company proposes to shift its registered office to a place within the jurisdiction of Registrar of companies, Coimbatore. State the steps to be taken by the company to give effect to the proposed shifting of its registered office.

Q. 28

A company XY Ltd. Wants to shift its Registered Office in Mumbai to Pune. State the procedure in this regard.

Q. 29

Explain the procedure for change of name of a company, as provided in the companies act, 2013.

Q. 30

Explain the provisions of law and procedure relating to alteration of object clause stated in the memorandum of association of accompany under Indian Companies Act, 2013.

Q. 31

Rishi Pharmacy Ltd. Decided to take up the business of food procession because of the downward trend in pharmacy business. There is no provision in the object clause of the Memorandum of Association to enable the company to carry on such business. State whether its object clause can be amended? Briefly mention the procedure to be adopted for change in the object clause.

Q. 32

The object clause of the memorandum of Vardhman Industries Ltd. Empowers it to carry on real estate business and any other business that is allied to it. Due to a downward trend in real estate business the management of the company has decided to take up the business of Food processing activity. The company wants to alter its memorandum, so as to include the Food processing business in its objects clause.

State whether the company can make such change as per the provisions of the companies act, 2013.

Q. 33

India Cosmetics Ltd. Was a registered company under Indian Companies Act, 2013. Later on, another company, India Cosmetic and Accessories Ltd. Was formed and registered. Being similarity in the names of both companies, India Cosmetic Ltd. Lodged the complaint against India cosmetic and accessories Ltd. To the registrar of companies stating that there is sufficient similarity between these two names which may mislead or defraud to the public. India cosmetic and accessories Ltd. Is intending to alter its name.

Advice the India cosmetics and accessories Ltd. To alter the name of the company according to the provisions of the companies act, 2013.

Q. 34

What restrictions are applicable under the Companies Act, 2013 when Articles of Association of a company are altered?

Q. 35

The Articles of a public company clearly stated that Mr. A will be the solicitor of the company. The company in its general meeting of the shareholders resolved unanimously to appoint B in place of A as the solicitor of the company by altering the articles of association. Examine, whether the company can do so? State the reasons clearly.

Q. 36

Article of a public company clearly stated that Mr. L will be the solicitor of the company. The company in its general meeting of the shareholders resolved unanimously to appoint Mr. I place of Mr. L as the solicitor of the company by altering the articles of association. State with reasons, whether the company can do so? If L files a case against the company for removal as a solicitor, will he succeed?

Q. 37

The secretary of a company issued a shares certificate to 'A' under the Company's seal with his own signature and the signature of a director forged by him. 'A' borrowed money from 'B' on the strength of this certificate. 'B' wanted to realize the security and requested the company to register him as a holder of the shares. Explain whether 'B' will succeed in getting the share registered in his name.

Q. 38

The Article of Association of XYZ Ltd. Provides the Board of Director has authority to issue bonds provide such issue is authorized by the shareholders by a necessary resolution in the general meeting of the company. The company was in dire need of funds and therefore, it issued the bonds to Mr. X without passing any such resolution in general meeting. Can Mr. X recover the money from the company? Decide referring the relevant provisions of the Companies Act, 2013.

Q. 39

The persons (not being members) dealing with the company are always protected by the doctrine of indoor management. Explain. Also, explain when doctrine of Constructive Notice will apply.

Q. 40

The Article of Association of a company may contain provisions for entrenchment under section 5 of the Companies act, 2013. What is meant by entrenchment provisions in this context? Also state the relevant provisions of the said Act dealing with entrenchment provisions.

Q. 41

The role of doctrine of 'Indoor management' is opposed to that of the role of 'Constructive notice'. Comment on this statement with reference to the companies act, 2013.

Q. 42

The board of directors of Sindhu Limited wants to make some changes and to alter some Clauses of the Articles of Association which are to be urgently carried out, which include the increase in Authorized Capital of the company, issue of shares, increase in borrowing limits and increase in the number of directors. Discuss about the provisions of the companies act, 2013 to be followed for alteration of Articles of Association.

Q. 43

The object clause of the Memorandum of Association of RST Limited authorizes it to publish and sell textbooks for students. The company, however, entered into an agreement with Q to supply 100 laptops of worth Rs. 5 lakh for resale purposes. Subsequently, the company refused to make payment on the ground that the transactions was ultra vires the company. Examine the validity of the company's refusal for payment to Q under the provisions of the Companies Act, 2013.

Q. 44

State the limitations of the doctrine of indoor management under the Companies Act, 2013

Q. 45

"The memorandum of association is a charter of a company". Also explain in brief the contents of Memorandum of Association.

Q. 46

Explain Doctrine of 'Indoor Management' under the companies Act, 2013. Also state the circumstance where the outsider cannot claim relief on the ground of 'indoor management'.

Q. 47

Ravi Private Limited has borrowed Rs. 5 crore from Mudra Finance Ltd. This debt is ultra vires to the company. Examine. Whether the company is liable to pay this debt? State the remedy if any available to Mudra Finance Ltd.?

Q. 48

Mr. X had purchased some goods from M/s ABC limited on credit. A credit period of one month was allowed to Mr. X. before the due date Mr. X went to the company and wanted to repay the amount due from him. He found only Mr. Z there, who was the factory supervisor of the company. Mr. z told Mr. X that the accountant and the cashier were on leave, his is in charge of receiving money and he may pay the amount to him. Mr. Z issued a money receipt under his signature. After two months M/s ABC limited issued a notice to Mr. X for non-payment of the dues within the stipulated period. Mr. X informed the company that he had already cleared the dues and he is no more responsible for the same. He also contended that Mr. Z is an employee of the company to whom he had made the payment and being an outsider, he trusted the words of Mr. z as duly distribution is a job of the internal management of the company. Analyse the situation and decide whether Mr. X is free from his liability.

Q. 49

Sound Syndicate Ltd. A public company. Its articles of association empower the managing agents to borrow both short- and long-term loans on behalf of the company, Mr. Liddle, the director of the company, approached easy finance Ltd. A non-banking finance company for a loan Rs. 2500000 in name of the company.

The lender agreed and provided the above said loan. Later on sound syndicate Ltd. Refused to repay the money borrowed on the pretext that no resolution authorizing such loan have been actually passed by the company and the lender should have enquired about the same prior providing such loan hence company not liable to pay such loan.

Analyse the above situation in terms of the provisions of doctrine of indoor Management under the Companies Act, 2013 and examine whether the contention of sound syndicate Ltd. Is correct or not?

Q.50

The articles of association of a Ltd. Company provided that 'X' shall be the law officer of the company and he shall not be removed except on the ground of proved misconduct. The company removed him even though he was not guilty of misconduct. Decide whether company's action is valid?

Or

A Ltd. Company is formed with its Articles stating that one Mr. X shall be the solicitor for the company, and that he shall not be removed except on the ground of misconduct. Can the company remove Mr. X from the position of solicitor even though he is not guilty of misconduct?

Or

The articles of a public company clearly stated that Mr. A will be the solicitor of the company. The company in its general meeting of the shareholders resolved unanimously to appoint B in place of A as the solicitor of the company by altering the articles of association. Examine whether the company can do so? State the reasons clearly.

Or

Articles of a public company clearly stated that Mr. L will be the solicitor of the company. The company in its general meeting of the shareholders resolved unanimously to appoint Mr. M in place of Mr. L as the solicitor of the company by altering the articles of association. State with reasons, whether the company can do so? If L files a case against the company for removal as a solicitor, will he succeed?

Q.51

The objects clause of the Memorandum of Association of the XYZ (pvt) Ltd. New Delhi, authorized to do trading in mangoes. The company, however, entered into partnership with Mr. A and traded in mangoes and incurred liabilities to Mr. A. the company, subsequently refused to admit the liability to 'A' on the ground of ultra vires the company. Advice whether stand of the company is legally valid and if so, gives reasons in support of your answer.

Q.52

The object clause of the Memorandum of Association of LSR private Ltd. Lucknow authorized to do trading in fruits and vegetables. The company, however, entered into a partnership with Mr. J and traded in steel and incurred liabilities to Mr. J. The company, subsequently, refused to admit the liability to j on the ground that the deal was 'ultra Vires' the company. Examine the validity of the company's refusal to admit the liability to J. give reasons in support of your answer.

Q.53

The object clause of the Memorandum of Association of RST Ltd. Authorized it to publish and sell text books for students. The company, however, entered into an agreement with Q to supply 100 laptops of worth Rs. 5 lac for resale purposes. Subsequently, the company refused to make payment on the ground that the transaction was ultra vires the company. Examine the validity of the company's refusal for payment to Q under the provisions of the Companies Act.

Q.54

Under the Articles of Association of Sunshine Ltd. Company directors had power to borrow up to Rs. 10,000 without the consent of the general meeting. The directors themselves lent Rs. 35,000 to the company without such consent and took debentures of the company. Decide under the provisions of the Companies Act, whether the company is liable? If so, what is the extent of liability of the company in this case?

Q.55

The Article of Association of XYZ Ltd. Provides the Board of Directors has authority to issue bonds provided such issue is authorize by the shareholders by a necessary resolution in the general meeting of the company. The company was in dire need of funds and therefore, it issued the bonds to Mr. X without passing any such resolution in general meeting. Can Mr. X

recover the money from the company? Decide referring the relevant provisions of the Companies Act, 2013

REGISTERED OFFICE OF THE COMPANY

1. Section 12 (REGISTERED OFFICE OF COMPANY)

1. Company must acquire a registered office within 30 days of incorporation.	2. Company must file detail of this registered office with registrar in form no INC-22 within 30 days of incorporation.	3. In case of change of registered office, ROC filing shall be done in form no INC-22 within 15 days of the change.
<p>4. Following are the naming and branding requirements applicable on every company</p> <p>(a) paint or affix name and address of registered office outside of every place of business in conspicuous positions, in legible letters, in English as well as local languages</p> <p>(b) engrave name of company on common seal, if any.</p> <p>(c) printing of company name, address of register office, corporate identity number, contact details on all business letters, bill heads, letter papers, notices, hundies, promissory notes, bill of exchange and other official publications.</p>		
5. If company has changed its name, both old and new name shall be used everywhere for minimum 2 years from the date of name change.	6. One person company shall always use the words "ONE PERSON COMPANY" after its name.	7. Regional director must confirm his order to company within 30 days of receiving application.
8. Company must file regional director confirmation to ROC within 60 days with shall be processed by ROC within next 30 days.	9. If everything is verified and found correct, ROC will issue new certificate of incorporation, which shall be evidence of the address change.	10. In case of non compliance, punishment is as follows:- (a) company will pay Rs. 1000 per day subject to a maximum of Rs. 100000 (b) officer in default will pay Rs. 1000 per day subject to a maximum of Rs. 100000
11. If it is found upon verification that company is not carrying on any business operations at the given address, removal of name can be done by ROC.		

2. CHANGES IN THE REGISTERED OFFICE

To change the registered office from one place to another, following formalities must be fulfilled.

<p>(a) within the same city town village – board resolution is sufficient.</p>	<p>(b) outside the city town village – special resolution.</p>	<p>(c) from one registrar to another registrar in the same state – special resolution and regional director approval.</p>	<p>(d) from one registrar to another registrar in different state – special resolution and regional director approval with prescribed formalities as specified in section 13.</p>
---	---	--	--

SERVICE & AUTHENTICATION OF DOCUMENTS ETC

1. Section 20 (SERVICE OF DOCUMENT)

1. Service of document means sending document to the company.	2. It can be done either by sending to the company or to its officers.	3. It can be done in following ways: (a) registered post (b) speed post (c) courier service (d) delivery by hand (e) electronic means
4. Company can send document to registrar or member or anyone by following ways: (a) ordinary post (b) registered post (c) speed post (d) courier service (e) delivery by hand (f) electronic means	5. A member may request delivery of document through specific means for which he must pay in advance.	6. In case of Nidhi company, individual notices to members is not necessary unless a member holds shares of more than Rs. 1000 or one percent of share capital whichever is less, otherwise newspaper notice is sufficient.

2. Section 21 (AUTHENTICATION OF DOCUMENTS, PROCEEDING AND CONTRACT)

A document, proceeding and contract can be **signed by** any key managerial personnel or an officer or employee authorized by board of directors.

3. Section 22 (EXECUTION OF BILL OF EXCHANGE ETC)

1. Bill of exchange, hundi or promissory note shall be made, accepted, drawn or endorsed on behalf of company by any person authorized by company.	2. Authorization can be done with or without common seal by two directors or by one director and company secretary.
--	---

QUESTIONS**Q. 1**

One of the subscribers to memorandum of association of a company under process of incorporation is a foreign national residing outside India. State the provisions of companies act, 2013 regarding authentication of his signature and address. Will the requirement of business visa be applicable of his case if he is a person of Indian origin or overseas citizen of India?