

Explain Memorandum Of Association
(The Companies Act,1956).

INTRODUCTION

- The act came into force on 1st April 1956
- Act extends to whole India
- It contains 658 Sections and 13 Schedules

MEANING OF MEMORANDUM OF ASSOCIATION

- It is the document which contains the rules regarding constitution and activities or objects of the company.
- It is a fundamental charter of the company.
- The company is governed by it.
- The company is allowed to work within the framework of it. By it outside world knows the state of affairs.
- It defines the extent and powers of the company.
- If the acts of the company are beyond the limits of the MoA, such acts would be void and *ultra vires*.
- Directors are personally liable to make good the Company's loss if company's money is spent on an unauthorized object.

DEFINITION OF MEMORANDUM OF ASSOCIATION

■ “Memorandum means memorandum of association of the a company originally formed or as altered from time in pursuance of any companies law or of this Act.”

CONTENTS OF MOA : SEC 13

- THE NAME CLAUSE.
- THE REGISTER OFFICE CLAUSE.
- THE OBJECT CLAUSE.
- THE CAPITAL CLAUSE.
- THE LIABILITY CLAUSE.
- THE ASSOCIATION CLAUSE.

NAME CLAUSE

- Every company must have a name of its own. The name gives the company a personal existence.
- The name and emblems of UNO, WHO, Indian National Flag, the official seal and emblem of central and State Government or the name and pictorial representation of political leaders have been prohibited.
- Further in case of public company with limited liability must add the word '**Limited**' at the end of its name, and the private company the word '**private Limited**' must be added at the end.

REGISTERED OFFICE CLAUSE (SITUATION CLAUSE)

- As the name indicates it describes the different situations. This clause a company must have a registered office at which all the communication and notices are to be addressed. The memorandum will only state the name of the province where office is situated.
- Every company must have a registered office.

OBJECT CLAUSE

- This is the most important clause in the memorandum. It clearly defines the domain of the company's activities.
- This clause cannot be changed without the approval of Central government and shareholder

LIABILITY CLAUSE

- This clause states, the nature of liability of the member. In case of a company in with limited liability, it must state that the liability of members is limited whether it is by shares or by guarantee. In the absence of the causes in the memorandum means, that the liability of its members is unlimited

CAPITAL CLAUSE

- This clause is required to specify the amount of share capital with which the company proposes to be registered and secondly the division of that capital into shares of a fixed amount.

ASSOCIATION CLAUSE (SUBSCRIPTION CLAUSE)

- This clause contain a statement by the subscribers that they are eager of forming themselves into company and agree to have a number of shares written against their respective names.

THE DOCTRINE OF ULTRA VIRES

- It means ‘beyond powers’. That is, any act done by the company beyond its legal powers and authority.
- Any act done by the company which is neither authorized by its objects nor by the Act, that act is *ultra vires* the powers and authority of the company.
- Such an act is void and cannot bind the company. And since it is void, it cannot be signed by shareholders either.

- An act *ultra vires* the powers of Directors but not *ultra vires* the company can be ratified by the shareholders.
- Similarly and act *ultra vires* the Articles of the company but within the powers of the Memorandum can be ratified by altering the articles.
- Essentially, an act *ultra vires* the company is void and cannot be ratified.
- Any act *ultra vires* but *intra vires* the Memorandum can be ratified, as such an act is irregular.

ARTICLES OF ASSOCIATION

- Regulations of the company are prescribed by the Articles of Association.
- It can be altered at any time according to the wishes of the members.
- It is subordinate to the MoA and is under full control of the members.
- Members can make their regulations through AoA subject to Companies Act.
- It contains rules & regulations for the internal management of the company subject to provisions of the Companies Act.

THANK YOU