

- 1 **Company [Section 2(20)]** - Company means a company incorporated:
  - (a) Under this Act; or (Co-Act, 2013)
  - (b) Under any previous company law.
  
- 2 **Private Company [Sec. 2(68)]** - Limits the number of members to 200. If no. of members exceeds 200, it is deemed to be Public Co. while calculating no. for 200 calculation:-  
Past and present Employee members are **not** counted and Joint holders on shares are counted as 1
  
- 3 **One Person Company [Sec. 2(62)]** - Only a natural person who is an Indian citizen whether Resident of India or otherwise shall be eligible to incorporate OPC or to be a nominee for the sole member of a OPC.
  
- 4 The term 'resident in India' means a person who has stayed in India for a period of not less than 120 days during the immediately preceding FY.
  
- 5 However, if a natural person is member in a OPC and becomes a nominee in another OPC, such person shall meet the eligibility criteria specified in Rule 3(2) **within** 180 days.
  
- 6 **A minor can/cannot become a member or nominee of the OPC**

7 OPC cannot be incorporated or converted into a sec-8 Co.

8 'Small Company' [Sec. 2(85)] - A company shall be a small company only if it satisfies both the following conditions:

- (i) Its **paid-up share capital** does not exceed Rs. 4 cr.; **and**
- (ii) Its **turnover** (as per profit and loss account for the immediately preceding FY) does not exceed Rs. 40 cr.

9 A company shall not be a small company, if:

- a. It is a Public company; or
- b. It is a Holding or a subsidiary company; or
- c. It is a company registered u/s sec-8; or

10 Subsidiary Company [Sec. 2(87)] –

(a) That other controls the **composition of its** board of directors; (holding company has power, at its discretion, to **appoint or remove** majority or all of the directors of the subsidiary company without the consent of the other persons. (not 51%) (m<sup>2</sup>))

- (b) That other exercises or controls **more than** half of the **total** voting power (rights) –
- either at its own or
  - together with one or more of subsidiaries; or
  - through its subsidiaries

11 Associate Company [Sec. 2(6)] - means a company in which that other company has a significant influence, (means control of **at least 20%** of **total voting power**, or control of or participation in business)

decisions under an agreement) but which is not a subsidiary company of the company having such influence **And includes a joint venture company**.

## 12 Formation of Companies with Charitable Objects, etc. [Sec. 8] Licensed Co

- a. company intends to prohibit the payment of Dividend to its members. (cannot divide surplus)
- b. Licence issued by CG (ROC).
- c. A firm ✓ may/may not become a member of a company registered u/s 8
- d. The CG (R.D) may revoke the licence issued to the company if the company:
  - (a) contravenes any of the provisions of Co. Act; or
  - (b) contravenes any condition subject to which the licence was issued; or
  - (c) the affairs of the company are carried on fraudulently or not as within the object of the company.

## 13 if licenced revoked , CG may order a section 8 Company to:

- (a) wind up; or
- (b) amalgamated with any other company registered u/s 8 and having similar objects;

14 A non-profit company may alter the provisions of its MOA or AOA with the prior approval of the CG.

sec. 2(69)

15 Promoter means a person: (Mnemonic - PACT)

- (P) → a) who has been named as such in a prospectus; or

A → b) is identified by the Company in the Annual return;

C → c) who has control over the affairs of the company directly or indirectly,

Act → d) in accordance with whose advise, direction or instructions; the BOD of a company is accustomed to Act.

16 However, a person acting merely in a professional capacity shall not be regarded as promoter

sec-4

17 The memorandum shall be in respective forms specified in **Tables A, B, C, D and E** in Schedule I as may be applicable to the company.

sec-5

18 The provisions for entrenchment may be made

- at the time of Formation of the company; or
- by an amendment of Articles,

(a) In case of a private company, with the consent of all members;

(b) In case of a public company, by passing special resolution.

Name Of Doctrine	Meaning	Case Law	Enforceability on Company
Ultra Vires	<p>→ contract which is not allowed as per object clause</p> <p>→ effect → void ab initio</p> <p>→ ratification not allowed</p> <p>→ Co → continue → injunction</p> <p>→ director personally liable.</p>	Ashbury railway carriage and steel ltd vs <u>Richie</u> .	NO.
Doctrine of Constructive Notice	<p>outsider dealing with company has not read MOA or AOA.</p>	Kotta Venkata Swamy vs C. Ram murthi.	<u>NO.</u>
Doctrine of Indoor Management ( <u>Turquand rule</u> )	<p>→ Internal irregularity by the Co.</p> <p>→ outsiders not require to appraise himself with internal mgt.</p>	Royal British bank vs <u>Turquand</u> .	<u>Yes.</u>

- 19 Exceptions to Indoor Management → case name.
- Knowledge of irregularity – Howard vs Patent Ivory manuf. Co.
  - Negligence – Anand bhairi Lal vs Dinshaw & Co.
  - Forgery → Ruben vs Great Fingall Consolidated Co.

20 Mention Name Of the Features / Characteristic associated

1	Its existence is distinct and separate from that of its members who have formed it.	Separate legal Entity.
2	Death, insolvency, insanity etc. of any member does not affect the continuity of the company. Thus, the life of the company does not depend upon the life of its members.	Perpetual succession.
3	A company is an artificial person as it is created by a process other than natural birth.	Artificial Person.
4	Liability of Company is dependent on Aggregate of amount unpaid on the share held by a member and the amount guaranteed by him.	Limited liability.

21 Does A member have an insurable interest in the property of the company NO Macaura vs Northern Assurance Co Ltd.

22 Even if all the members of the company die ,  
Company continues to exist.

23 Mention Points regarding Lifting of Corporate veil

Situation	Point	Name Of CaSe
1. Protection of revenue / tax	If Co. is formed to evade tax. Corporate veil can be lifted.	Dimshaw manickjee. Pettit.

2. Prevention of fraud or improper conduct	If Co. is formed for fraudulent purpose	Gilford Motors Ltd vs <u>Horne</u> .
3. Determining the character of the company - whether an enemy company	To find if affairs are controlled by people of enemy country.	Daimler vs Continental tyres and rubber industries.
4. Check avoidance of welfare legislation/ To avoid legal obligation	Co. formed to defeat welfare legislation for employees.	Workmen of Associated rubber industries vs Associated rubber industries.
5. Formation of subsidiaries to act as agents	Co. formed to act as a agent or trustee on behalf of other Co.	merchandise transport Ltd vs <u>British</u> transport Co.

24 Government Company means any company:

- 24/03/2020
- (i) in which not less than 51% of the paid up share capital having voting rights is held –
- by the Central Government; or
  - by any State Government(s); or

(c) jointly by the Central Government and any State Government(s).

(ii) which is a subsidiary of a Government company.

### Foreign Company [Section 2(47)].

- It means any company or body corporate incorporated outside India which—
- has a place of business in India whether by itself or through an agent, physically or through electronic mode;
- and conducts any business activity in India in any other manner.

### Dormant Company [Sec. 455]

Where a company is formed and registered under this Act for:-

- a Future project and has no Significant Accounting Transaction or,
- to **hold an asset** or Intellectual property and has Significant Accounting Transaction, or
- an Inactive company,