

CA Foundation - The Companies Act (TCA) Cheatsheet (Elaborated)

1. Company Definition (Sec 2(20))

A company is a legal entity formed under the Companies Act, 2013. It has a separate legal identity distinct from its members, with perpetual succession and a common seal. It can sue and be sued in its own name.

Case Law: Salomon v. Salomon & Co. Ltd. - established the principle of separate legal entity.

2. Types of Companies

- Private Company [Sec 2(68)]: Restricts transfer of shares, limits members to 200, and cannot invite the public to subscribe for securities.
- Public Company [Sec 2(71)]: Does not impose these restrictions, can invite public for shares, must have at least 7 members.
- One Person Company (OPC): Has only one person as a member and is treated as a private company.
- Small Company: A private company with paid-up capital \leq Rs. 4 crore and turnover \leq Rs. 40 crore (not applicable to holding/subsidiary companies).

3. Promotion of a Company

A promoter is someone who undertakes the responsibility of forming a company and bringing it into existence. Promoters identify business opportunities, arrange for resources, and handle initial formalities.

Duties: Must not make secret profits and must disclose all relevant information to the company.

Case Law: Gluckstein v. Barnes - promoters held accountable for secret profits.

4. Incorporation Process (Sec 3-7)

- Step 1: Apply for name reservation via RUN (Reserve Unique Name).
- Step 2: Obtain Digital Signature Certificates (DSC) for proposed directors.
- Step 3: Apply for Director Identification Numbers (DIN).
- Step 4: File SPICe+ Form (INC-32) including details of company, directors, registered office, etc.
- Step 5: Attach MOA (INC-33) and AOA (INC-34).
- Step 6: ROC verifies and issues the Certificate of Incorporation (COI).

5. Memorandum of Association (MOA) [Sec 4]

The MOA is the charter of the company and defines its scope of operations. It contains:

- Name Clause

- Registered Office Clause
- Object Clause (main & ancillary objectives)
- Liability Clause
- Capital Clause
- Subscription Clause

6. Articles of Association (AOA) [Sec 5]

The AOA contains rules and regulations for internal management and administration of the company. It includes provisions about share capital, transfer of shares, meetings, voting rights, etc. AOA is subordinate to the MOA.

7. Doctrine of Ultra Vires

Any act done beyond the scope of the MOA is ultra vires (beyond powers) and is void ab initio. The company cannot ratify such acts even with unanimous consent of shareholders.

Case Law: Ashbury Railway Carriage Co. Ltd. v. Riche

8. Doctrine of Indoor Management

This doctrine protects outsiders dealing with the company, assuming internal proceedings have been properly followed. It is an exception to the doctrine of constructive notice.

Case Law: Royal British Bank v. Turquand

9. Lifting of Corporate Veil

In certain situations (fraud, tax evasion, enemy companies), courts may disregard the company's separate legal identity to hold members/directors personally liable.

Case Law: Gilford Motor Co. v. Horne

10. Key Sections and Limits

- Sec 2(20): Defines a company as incorporated under this Act.
- Sec 2(68): Private company - limits members to 200.
- Sec 3: Requirements for incorporation - 2 members for private, 7 for public, and 1 for OPC.