

**1 Prospectus – Definition (Sec. 2(70))**

- Prospectus = **any document** described or issued as a prospectus including:
  - Red Herring Prospectus
  - Shelf Prospectus
  - Information Memorandum
- Purpose → Invite public to subscribe/purchase securities.

⚡ *Exam Note:* Every **public offer** needs prospectus. **Private placement** does not.

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**2 Public Offer & Private Placement**

**Public Offer (Sec. 23):**

- By issuing a prospectus.
- Through offer for sale (via intermediaries).
- By private placement (but still treated as “public offer” in certain cases).

**Private Placement (Sec. 42):**

- Offer made to a **selected group** (max 200 persons/year, excluding QIBs & ESOPs).
- Payment → through banking channels only (no cash).
- Must be approved by **Special Resolution**.
- Allotment → within 60 days; else refund in 15 days.

⚡ Penalty for contravention → Company: ₹2 crores or amount raised (whichever is lower).

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**3 Types of Prospectus**

**1. Shelf Prospectus (Sec. 31):**

- Issued by banks, PFIs, financial institutions.
- Valid up to **1 year**.
- Must file **Information Memorandum (Sec. 32)** for updates.

**2. Red Herring Prospectus (Sec. 32):**

- Issued **before price & quantum** of securities decided.
- Contains all details except price/quantity.

### 3. Abridged Prospectus (Sec. 33):

- Brief prospectus → highlights important info.
- Must be attached to every application form.

### 4. Deemed Prospectus (Sec. 25):

- Where a company allots securities to an intermediary → treated as if issued by company.

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## Contents of Prospectus (Sec. 26)

Must contain:

- Company details – name, registered office, objectives.
- Share capital & structure.
- Details of directors, promoters, auditors, underwriters.
- Financial information (audited reports of last 5 years).
- Pending litigation, risk factors, material contracts.

### Penalty for non-compliance:

- Company: ₹50,000 – ₹3,00,000.
- Officers: ₹25,000 – ₹50,000.

 *Exam Angle:* Many MCQs & short notes come from “mandatory contents.”

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## Misstatement in Prospectus (Sec. 34–35)

If a prospectus contains false/misleading info → liability arises.

### Civil Liability (Sec. 35):


- Company, directors, promoters, experts must compensate investors.

### Criminal Liability (Sec. 34):

- Imprisonment: 6 months → 10 years.
- Fine: At least ₹50,000 up to 3 times amount involved.

### Defences Available:

- Statement immaterial.
- Believed it to be true.
- Withdrew consent before issue.

 *Case:* Peek v. Gurney – Liability for fraudulent misstatements in prospectus.

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## 6 Allotment of Securities

### Public Companies:

- Must receive **Minimum Subscription (90%)** within **60 days**.
- If not received → refund within **15 days**.
- Failure to refund → repay with **15% interest**.

### Private Companies:

- Governed by Articles of Association (AOA).

⚡ *Exam Point:* Prospectus = contract between company & investors.

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## 7 Global Depository Receipts (GDRs) (Sec. 41)

- Companies can issue securities in international markets.
  - Must comply with **FEMA + SEBI guidelines**.
  - Investors get GDRs → represent underlying Indian shares.
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## 8 Important Sections to Remember

- **Sec. 23:** Public offer & private placement.
  - **Sec. 25:** Deemed prospectus.
  - **Sec. 26:** Contents of prospectus.
  - **Sec. 31–32:** Shelf & Red Herring Prospectus.
  - **Sec. 33:** Abridged prospectus.
  - **Sec. 34–35:** Misstatement → Civil & Criminal liability.
  - **Sec. 42:** Private placement.
  - **Sec. 41:** GDRs.
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### ⚡ QUICK REVISION (Exam Pointers)

- Prospectus = Invitation to public (Sec. 2(70)).
- Shelf Prospectus valid **1 year**; Red Herring → price not fixed.
- Private placement → max **200 persons/year**, no cash.
- Misstatement = **Civil + Criminal liability**.
- Minimum subscription = **90% in 60 days**; refund with 15% interest.

- GDRs = Foreign market instruments, follow FEMA & SEBI.