

Semester-II

Company Law Incorporation of Company

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Definition

Stages in Formation

Memorandum of Association (MOA)

Article of Association (AOA)

Prospectus

Formation of a Company

- A Company comes into existence when a group of people come together with a view of forming an association to exploit the business opportunities by bringing together; men, material, money and management



Stages of Formation of Company

Promotion Stage

Selection of Name

Incorporation Stage

Capital Raising Stage

Commencement of Business Stage

Promotion Stage

- * Discovery of Business opportunities.
- * Detailed Investigation.
- * Assembling necessary requirements.
- * Financing of proposition.

Selection of Name

- To be identified for legal and business purpose (i.e. “Ltd” or “Pvt Ltd”).
The name *should not be* similar to the existing.

Incorporation Stage

- A company is said to be incorporated when it fulfill the formalities of registration and obtain “**CERTIFICATE OF INCORPORATION**” by submitting the MoA, AoA and written consent of all the directors.
- A public to commence business, should raise the required capital and obtain the “**CERTIFICATE OF COMMENCEMENT OF BUSINESS**”

Certificate of Incorporation

 प्रारूप १ पंजीकरण प्रमाण-पत्र	
कॉर्पोरेट आयडी नंबर : U70400AP2010PLC020872	2010 - 2011
मैं यहाँगुवा कॉर्पोरेट आयडी नंबर दूँ कि मैंने VISHVASOOLD INFRASTRUCTURES INDIA LIMITED	
को यहाँगुवा, यहाँगुवा कॉर्पोरेट आयडी नंबर U70400AP2010PLC020872 के तहत पंजीकृत किया है।	
यह प्रमाण-पत्र और निम्नलिखित प्रमाणों के साथ एक ही एक प्रमाण में प्रमाणित है कि यह प्रमाण-पत्र	
Form 1 Certificate of Incorporation	
Corporate Identity Number : U70400AP2010PLC020872	2010 - 2011
I hereby certify that VISHVASOOLD INFRASTRUCTURES INDIA LIMITED is the day incorporated under the Companies Act, 1956 (No. 1 of 1956) and that the company is listed.	
Given under my hand at Hyderabad this Twenty Seventh day of October Two Thousand Ten.	
	 Name and Designation of Registrar of Companies after 10/11 Acting Registrar
मैंने यहाँगुवा कॉर्पोरेट आयडी नंबर दूँ कि मैंने VISHVASOOLD INFRASTRUCTURES INDIA LIMITED को यहाँगुवा, यहाँगुवा कॉर्पोरेट आयडी नंबर U70400AP2010PLC020872 के तहत पंजीकृत किया है। यह प्रमाण-पत्र और निम्नलिखित प्रमाणों के साथ एक ही एक प्रमाण में प्रमाणित है कि यह प्रमाण-पत्र	



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Capital Raising Stage

- Entering onto an agreement with underwriters.
- Applying to the stock exchange for listing of shares.
- Issue of prospectus inviting public to subscribe.
- Allotting shares.

Commencement of Business Stage

- Under Companies Act 2013, the date of Incorporation of Company cannot be the date of Commencement of Business. From the point of Commencement of Business Companies may be divided into 2 categories.

➤ ***Public and Private Companies not having share Capital***

A public company or a private limited company not having share capital are not required to comply with any other formalities and may commence its business activities immediately after obtaining the certificate of Incorporation from the concerned registrar of Companies.

Commencement of Business Stage

➤ ***Public & Private companies having share Capital***

As per section 11 of Companies Act 2013, now all newly Incorporated Public & Private companies having share capital would be required to obtain certificate of commencement of Business from concerned registrar of companies before commencing the business or exercise of borrowing powers.

Promoters of Company

- A promoter is one “ who undertakes to form a company with reference to a given object and to set it going who takes the necessary steps to accomplish that purpose”.
- *Liability of promoters:*
 - ✓ Liable to hand over any secret profit and any personal interest in dealings.
 - ✓ Liable to untrue statement in the prospectus.
- *Remuneration to promoters:*
 - ✓ If personal skills are involved in promotion



Memorandum of Association (MoA)

- The MoA is a document which contains the Fundamental Rules regarding the constitution and activities of the company.
- It is the charter of the company defines its *raison d'être* (reason for existence).
- It lays down the area of operation of the company.
- It also regulates the External Affairs of the company.

Content of MoA (Sec. 13)

- The name clause.
- The register office clause.
- The object clause.
- The capital clause.
- The liability clause.
- The association clause.
- NOTE - The MoA must be signed by at least seven subscribers in the case of Public Company and two in the case of Private company.



Article of Association (AoA)

- The AoA contains regulations regarding all matter concerning the internal affairs of the company.
- AoA should be printed, divided into paragraphs and serially numbered.
- Alteration of AoA is done by passing a special resolution.

Content of AoA

- Division of share
- Procedure of holding and conducting the meetings.
- Voting rights of members and rules regarding methods of voting
- Matters relating to appointment, powers duties, qualification and remuneration of directors.
- Methods to increase or decrease capital.
- Rules regarding common seal of the company.



Content of AoA

- Terms of appointment ,remuneration, delegation of authority
- Rules relating to issue of share capital.
- Declaration of dividend and rules regarding its payment.
- Rules relating to accounts, audit charging of depreciation and creation of reserves etc.
- Methods of securing loans.
- Procedure of winding up of a company.

Prospectus

- Prospectus means any document described or issued as a prospectus inviting deposits from public or inviting offer from public for the subscription or purchase of any shares , or debentures of the company.
- *“CERTIFICATE OF LIEU OF PROSPECTUS”* is issued by a public company, where the doesn't invite public subscription.

Content of Prospectus

- Date of issue of prospectus.
- Name and register office of the company.
- Consent of Central Govt. for the present issue/compliance with the SEBI guidelines.
- Voting rights ,dividend ,expenses on issue etc.
- Name of the stock exchange.
- Punishment for fictitious application.
- Refund of issue if 90% min. subscription not received.
- Names and addresses of leading managers.

Content of Prospectus

- Issue of allotment letter or refund within 10 weeks with interest.
- Date of opening and closing of issues.
- Credit rating from **CRISIL** (*CREDIT RATING INFORMATION SERVICES OF INDIA LIMITED*)
- Terms of Underwriting & Risk Factors.
- Capital Structure of the company
- Terms and particulars of the issue.
- Restriction on transfer and transmission of shares.

Thank You