

INCORPORATION OF²⁶ COMPANY

sec:

3 to 22

6 to 10 mark

concept 1

Incorporation

→ In General meaning of Incorporation is "Registration".

promoter ⇒ Any person who conceives (generation) of Idea

either

Individual

OR

Body

corporate/firm

As per layman's language

⇒ Idea → develop

⇒ Influence other person to join his idea.

⇒ Arrangement of capital

⇒ Find out Brokers, legal Advisor, chartered Accounts, Bankers or other professional which help in incorporating company.

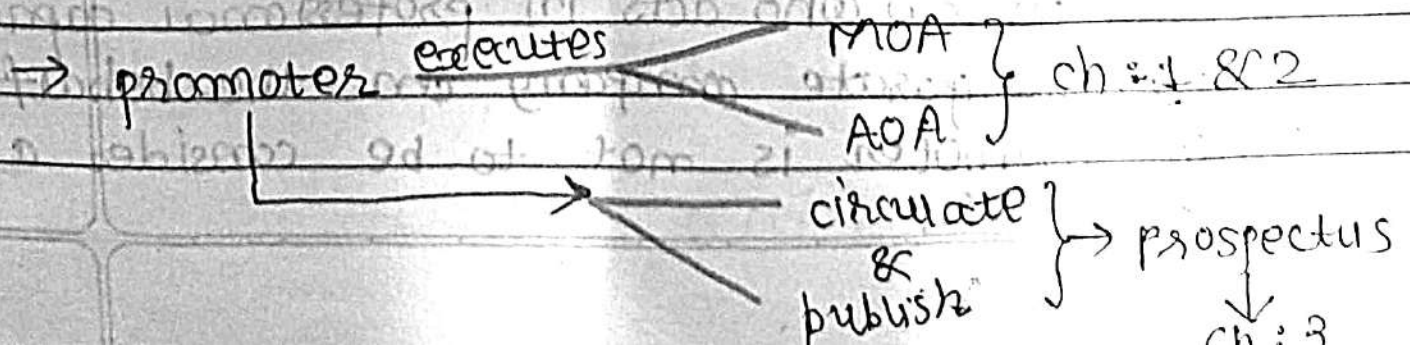
⇒ A person who also executes preliminary contracts on behalf of company

Preliminary = Promoter's = Pre incorporation contracts

→ So, A company is a separate legal entity But this status gained by company only after incorporation.

→ Incorporation of company is to be carried out through the process of law.

→ So promoter is the person who brings the company in existence.



Concept 2

Promoters

→ Promoter is the person who brings the company in existence.

→ promoter ^{also} appoint → First directors

Definition Sec: 2

Promoter means a person

who has been identified as promoter or named as promoter in prospectus & <u>Annual Return</u>	who has control over the affairs of the company Directly	on whose advice or instructions BOD of company Act Indirectly
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* Special Note :-

Any person who acts in professional capacity to incorporate company on the behalf of promoter is not to be consider as promoter.

* ICAJ special Note :-

promoter { only at time of incorporation
after the incorporation

JKSC Pvt. Ltd. Agreement → Prasad sir
has control over the
Affairs of JKSC Pvt.
Ltd. (Indirect) ↓ Promoter

concept 3 :

preliminary contract / Promoter's contract /
incorporation contract

Those contracts which are executed before
before the incorporation of company
by the promoters on the behalf of
intending company (i.e. proposed)

Now these contracts are Binding on
company after incorporation ?

YES



If company Adopts
these preliminary contracts
then company is
liable.

NO

(General Rule)



Because at time of
conclusion of contract
company is not in
existence.



Promoters are liable
personally

Concept: Section: 71

Procedure of Incorporation

1.

professional

CA

CS

CMA

Advocate

help to

Incorporate
company

2. Determine the type of company.

3. www.mca.gov.in → SPICE



check Name availability
& Name Reserve

4. Draft MOA & AOA of company.

5. submit MOA & AOA to ROC

6. consent from the person who are
appointed as first directors of company.

7. submit declaration

Subscribers of MOA
Directors of company
professional who
engage in incorporation

MOA & AOA of company

8. Pay Fees with other particular documents.

9. obtain COI (Certificate of Incorporation)
from ROC

Promoters for Incorporation of co. ROC

Application documents & Fees
↓
INC-32 other Information as required

SPICE

Documents & Information Required by ROC:-

(a) MOA → Electronic
AOA ↓

E-MOA / E-AOA

↓ ↓

INC-33 INC-34

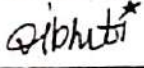
Duly signed by All subscribers

Digital signature

- ⇒
- (i) Name
 - (ii) Address
 - (iii) Occupation
 - (iv) Nationality

subscriber can be
National or Foreign
subscriber
↓
Indian

FORMAT

Name of subscriber	No. of shares	Signature of subscriber	Signature of witness
Roham	At least		common
vibhuti	an		witness or
Amam	share		at least
	↓		one
	Association		witness to
	clause		verify it
			Signature

(2)

Subscriber



Body corporate



Sign



Director

Officers

Employee

of
MOA

on the behalf of co.

But such
director, officer
or employee
should not
already
subscriber

For example,

→ XYZ Pvt. Ltd

Name of shareholder	shares	sign
• Rohan	1000	Ⓟ
• Reliance Ind. Ltd	1000	Ⓟ
• Vibhuti	1000	Ⓟ

For example, Aman is Director of company, therefore, he can eligible to sign.
 ↓
 should not as Rohan or Vibhuti because they are already a subscribers

(3)

Subscribers

↓
 Partnership

↓
 sign

Any partner But after approval of all other partners

But such partner should not be already subscriber of MOA.

For example,

→ XYZ Pvt. Ltd.

→ Name of Shareholders

Shares

Sign

• Rohan

1000



• Reliance Ind. Ltd

1000



• Vinay

1000



• Anil & Associates

1000



Rohan, Vinay
can't eligible to
sign for firm.
because already
subscriber.

* subscriber → illustrate → Thumb Impression

* subscriber → Foreign National

• Signature

verify

• Name

• Address

Notary

• Occupation

public

* suppose a person
visit in india
to incorporate co.

such person can incor-
porate co. only if he
has valid business visa

Declaration

Declaration

1

(INC-8)

Declaration

2

(INC-9)

A person who is engaged in the Incorporation of company as a

Any person who named as Director, Secretary, Manager, (AOA)

All the subscribers of MOA

The person named as Director in AOA

professional (CA/CS/CMA/ Advocate)

1. All the document & information given are true & correct as per Best of all knowledge

All the Rules & compliance Related to inc. of co. has been duly complied.

2. They have not committed in the any offence related to company incorporate, promoters Management at any time

37

3. They have not guilty of any offence in co. Act 2013 or any previous Act (co. Act 1956) 1. Only the last 5 years.

* Reg. office Address :- either any time of incorporation OR After (within 30 days) of Inc. of Address of correspondence company

concept 5: Particulars of person named as directors in AOA

DIR - 12

1. Name
2. Surname / middle / family name
3. Address
4. Nationality
5. Occupation
6. DIN - Director identification Number
7. Interest in other body corporate / firm

8. consent to become director → DIR-2

concept 6 : Particulars of subscribers mentioned in MOA

1. Name
2. Surname / middle / family
3. Address (Residential)
4. Nationality
5. occupation
6. Education Qualifications
7. PAN
8. Email id

Proof of
Residence

Proof of
Identity

- ↳ electricity Bill
- ↳ Gas Bill
- ↳ Telephone Bill
- ↳ Property Receipt
- ↳ water connection Bill

- Aadhar
- voter ID
- foreign → passport

Not older than
2 Month

* subscriber

Interested in other
Body corporatecompany
Name

CIN

Promoter
OR
Directorcorporate
Identification
Number

* subscribe

Body corporate

company
Name

CIN

Promoter
OR
Director
Regi. office
Address

GLN →

Global location NO.

company

LLP

Board Resolution to
subscribe MOA copy

Authorisation

Aggrement by all
partners to authorise
LLP to become
subscriber

* Now, ROC if satisfied that all documents & information given by company are true & correct, then he will issue certificate of Incorporation

↓
INC - II
↓

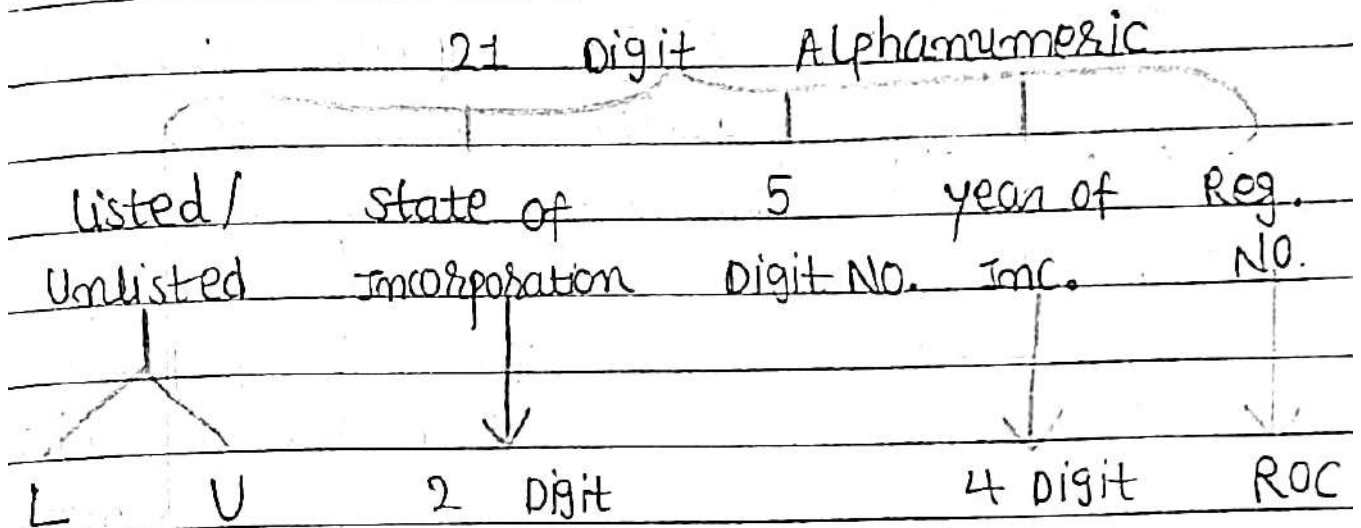
This certificate contains / includes

PAN of CO.	Name of CO.	CIN	DATE of Incorporation
------------------	-------------------	-----	-----------------------------

↓
This COI signed & stamped by ROC

& from such date which is mentioned COI, company is now a separate legal identity.

Concept 7: CIN



→ This NO. is mentioned on COI.

concept 8 : section : 9

Effects of Registration

* From the Date of incorporation → Date which is mentioned in COI

* The subscribers of MOA become members of co.

* The company will be treated as Body corporate by the name mentioned in COI

Now company	Having company	can enter
can do All	perpetual	into any
such Acts which	succession	contract,
a Body	sue by/	can acquire
corporate can	from its	property
do.	own name	from its
		own name

concept 9 : section 10 A
commencement of Business

Application :- Every public or Private company having share capital

shall not commence Business Activity or can incur any liability unless -

Dedclaration By
subscriber has Paid the
value of share taken by
them with in 180 Days

Verification of
Reg. office

INC-22

↓
This declaration shall be

verified by practising

CA CS CMA

Penalty for company :- 50,000/-

contravention in

section 10 A

officer :- 1000 per d

Max. to

1,00,000

→ If no such Declaration is submitted by company with ROC within 180 Days from date of incorporation, then ROC can Remove the name of company from its Register.

False or Incorrect Information furnish or conceal of material fact at the time of incorporation

False or Incorrect Information furnish or conceal of material fact after Incorporation

So, All person who has furnished such information & those who provide

↳ promoter
↳ professionals
↳ directors
↳ subscribers

↳ company
order of Tribunal

Declaration which is false or who furnish false or incorrect information NCLT (National Company Law Tribunal) is liable for penalty u/s 447 or submit false declarations When Appn are given to Tribunal penalty u/s 447

↓

Highest penalty or submit false declarations When Appn are given to Tribunal penalty u/s 447

Section

- ↳ change in Magt. of co.
- ↳ change in MOA/AOA
- ↳ liability of Member shall be Unlimited

↳ Remove the name of co. from ROC

↳ winding up

↳ Any other order such as NCLT.

Before passing order

Audi Anusum considers All the transactions

⊕

Opportunity of which are pending
Being heard or
not completed

MOA → sec: 4 → 7 clauses
→ change (Alteration)

MOA :- sec: 4 AOA :- sec: 5

Alteration :- sec: 13 Alteration :- sec: 14

concept 10 MOA

Memorandum of Association

→ MOA is the charter of company.

→ MOA defines the constitution of company.

→ MOA defines the scope of the company.

What Acts can
company DO

What Acts that
company is unable to do

→ MOA defines Power of the company

→ MOA is the foundation of company.

→ MOA Defines the objectives of company.

→ so, MOA contains the scope of Actions which can be performed by company & tells the scope of company Acts that company can not perform.

→ So, If Act which is not in scope of power of company



Beyond the power of company

such Action has no legal impact

Now such Act is called "Ultra vires"

→ MOA Enables the shareholders, creditors and all those person deals with company to know power of company.

concept is: Doctrine of constructive notice

→ MOA & AOA are public document u/s 399 of co. Act, 2013.

→ Anyone can inspect or ask for MOA/AOA of the company by paying prescribed fees to ROC (including cost).

→ so, company Act Always Assume any person who is dealing with company have the knowledge of MOA & AOA of the company.

→ so, it is always Assume that such person has Read the MOA & AOA, NOT even READ have understood MOA & AOA.

→ so, if transaction which is Beyond the object clause of MOA, the company is not liable; the third party is himself liable for such transaction because co. Act, 2013 assumes that third party has read the provisions of MOA & AOA.

- It is the duty of every person to Read MOA of company when he is Dealing with the company
- Doctrine of constructive Notice ^{Protects} the company of all set outsiders.

→ Because such transaction is ultra vires which has no legal impact.

→ Through MOA, the shareholder can know the purpose or objective for which company is going use their money & how much is the rise in investing that money.

concept is: MOA → Format
Schedule-I

TABLE A	TABLE B	TABLE C	TABLE D	TABLE E
A	B	C	D	E
↓	↓	↓	↓	↓
company limited By shares	company limited By Guarantee	company limited By Guarantee	company Unlimited	company Unlimited
	not having share capital	having share capital	Not having share capital	having share capital

concept 13: MOA clauses or conditions



which are mandatory in nature



7 CLAUSES



↳ Name clause

↳ situation or registered office clause

↳ Object clause

↳ capital clause

↳ liability clause

↳ subscription clause or Association clause

↳ Nominee clause → this clause is only applicable in OPC

concept 14: Some important points for MOA

→ MOA must be printed, divided into paragraphs & consecutively numbered.

→ No. of subscribers

(sec: 3)

> PVT. → At least 2

> Pub. → At least 7

> OPC → 1

→ At least "one witness" to verify their identity.

→ CAN a Minor become a subscriber of MOA or Member of company?

→ No, Minor is incompetent to contract in India.

→ Minor cannot be signatory or subscriber of MOA.

→ The guardian of Minor can be subscriber only if their personal capacity not on behalf of minor.

→ MOA is the foundation of company, But MOA cannot contain any provision which is not complying with the Companies Act.

Co. Act, 2013 > MOA

Co. Act overrides the MOA

section : 6

AOA concept is : Doctrine of Ultra Vires

→ Beyond the power of the company.

→ Beyond the object clause of company.

→ Power which are outside the company.

↓
such An Act is called ultra vires the MOA of company

↓
such Act can not be ratified by shareholders even after passing Unanimous Resolution (100% Majority)

→ such transaction has no obligation on the company & will not give any Right on the 3rd party.

↓
such transaction has no default impact & to be treated as Null & void.

↓
3rd party can not sue to company & company can not sue the 3rd party.

20. But if any ~~mi~~ Act is beyond the AOA
But within the MOA

(Ultravises the AOA But intravises
the MOA can be ratified by
passing special Resolution in the
meeting)

CASE LAW :- ASNBURRY RAILWAY
CARRIAGE &
IRON COMPANY
VS
RICHE

3rd party

object
clause

concept 16 : Doctrine of Indorse
Management

→ The person who are dealing with company
must have the knowledge of company's
MOA & AOA.

→ It is presumption the outsiders have
read MOA & AOA & Not only Read, they

have understood the MOA & AOA as well.

→ But outsiders can assume that provisions of AOA are followed by the officers or directors of company.

→ outsiders has no duty or obligation to see how company carry its own rules and Regulations or its Management.

→ Outsider can assume that everything is done regularly & in consistent manner.

→ Doctrine of Indoor Management is an exception of doctrine of constructive Notice.

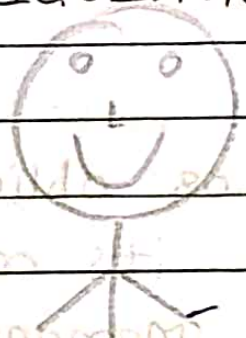
↓
This doctrine protects the outsiders; the third party of all the set of company.

↓
This doctrine is also known as TURQUAND RULE.

due to
Bench Mark
case law

ROYAL BRITISH VS
TURNQUAND

LIQUIDATOR



RAILWAY
COMPANY

TURNQUAND



The director could not
Amount more than
specified in ordinary
Resolution passed by
members to get loan

AOA

Ordinary Resolution has been
passed But No Amount
mentioned on it.

AOA is the Registrable
document with
ROC.

BOND



With A
BANK



ROYAL BRITISH

BANK



Ordinary Resolution → NOT Register
with ROC

This is not a public

Document, Royal

It is presumed that British Bank is not Bank has read this presume to look into document. company's Rule &

Regulation

doctrine of constructive

Notice Bank is assumed that everything which is mentioned in AOA has been done regularly.

doctrine of indoor

Management

court :- The Management or internal affairs of company is problem of outsiders not of outsiders

Royal British Bank will the suit.

concept 17: Exceptions of Indors Management



these exceptions protects the company not the outsiders

(1) Actual or constructive knowledge of irregularity

→ It is not the duty of outsiders to look into company's internal regulations

→ But if the outsider has already knows that company's way of conduct is not proper & the management is not doing in consistent way.

→ so this exception protect the company not the outsider who has already the knowledge of irregularity.

(2) Suspicion of irregularity:

→ when the person who is dealing with the company is having suspicion of irregularity

means he is in suspicion that transaction is not conducted in usual manner.

→ so, As per law it is duty of that outsider to make an inquiry.

→ so, in such case it is suggested to outsiders not to deal with company & if it deals law is not supposed to protect the outsiders.

(3) Forgery:

→ Rule of Indors management is not applicable on the transactions which is forged in nature.

→ Such transaction is always null & void

→ Such transaction does not give any right either to company or outsiders

concept 3.8: clauses → ⑦

NAME CLAUSE

(sec: 4 + sec: 13 + sec: 16 + sec: 12)

→ First clause of MOA

This clause contains the Name of company

↓ ↓ ↓ ↓ ↓
 should not be identical with existing company
 should not resembles
 should not undesirable in opinion of CA
 It should not be any offence under any law
 should not be such a name which may mislead the public

previous Approval of CA is Required
 ↓
 If such name is used.
 Name should not be such that which can suggest the connection with
 Sec/CA
 ↓
 Ex: Board, commission, Authority, federal, Rashtrapati, Bharat, central, state, President etc.
 should not be prohibited under "emblems & names Act, 1950"

→ If such word used in Name of company

↓
 Regulator's conditions has been complied

→ Insurance → IRDA
 → Bank → RBI
 → stock exchange → SEBI
 → venture capital → SEBI
 → Assets mangt → MCA
 → NIDHI → MCA
 → Mutual fund → SEBI

→ PVT CO. → used word PVT. LTD as suffix
 → Pub. CO. → used word LTD. as suffix
 → NPO CO. → No word either PVT. LTD or LTD as suffix
 → IFSC → used word IFSC as suffix
 → International financial service company

→ As we already discussed (New co.) Applⁿ → SPICE+ → INC-32
 ↓
 Reservation of Name (20 days)

→ Existing co. → Name change → Reservation of Name
 ↓
 60 Days → RUN Based used

→ If any defect, ^{then} Resubmission allowed within 15 days

Cancellation of Name

→ Name Reserved for proposed company

By furnishing wrong or incorrect information

company has not incorporated

company has been incorporated

→ Reserve name will be cancelled

→ ROC ^{order} change of Name of co.

→ penalty → 1 lakh (Maximum)

within 3 months

→ strike off name from Register

→ winding up of co.

after giving opportunity of being heard

SEC: 13 → Alteration of MOA → Name clause

(i) Pass special Resolution, (SR)

(ii) Approval needed from ^{declared} co. → ROC

(iii) If word PVT. ^{Add} in Name, ^{delete}

NO approval Required from co.

(iv) MGT-14 } shall be filed within 30 ROC Days of passing SR
⊕
co. Approval

(v) Registrar Enters → New Name

shall issue new CO's with new name

In place of old name

→ shall not be undesirable in opinion of co.

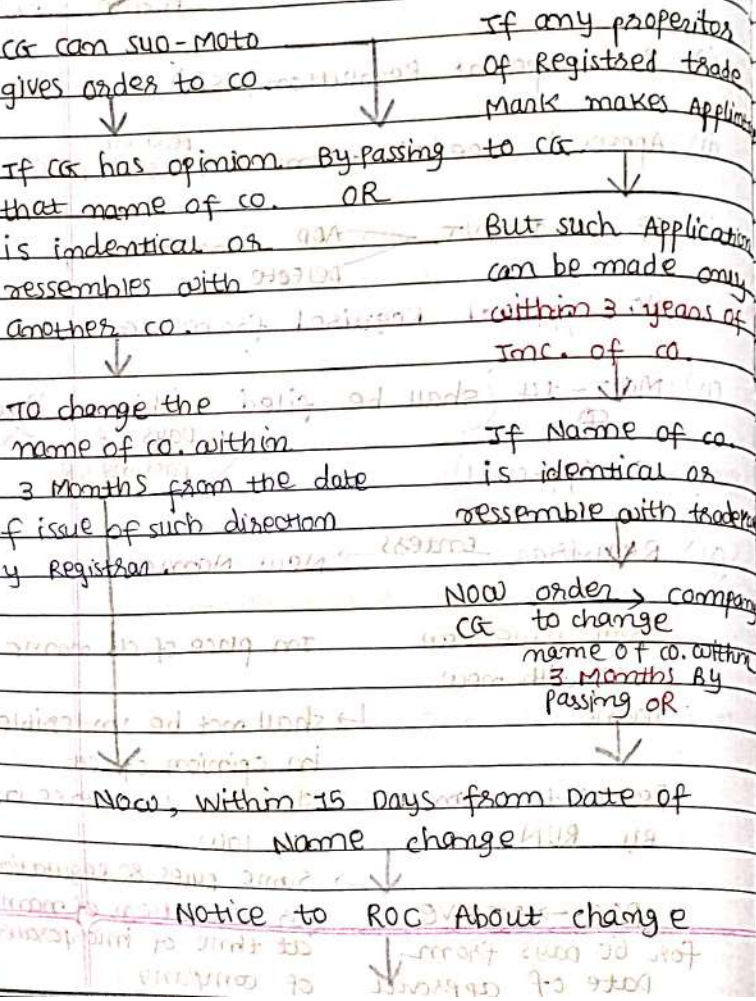
Reserve the Name By RUN

→ shall not be offence in any law.

ROC → Reserve for 60 days from Date of approval

→ Same rules & Regulation for reservation of name at time of incorporation of company.

Sec: 16 → Rectification of Name



- Now ROC shall Record new name in place of old & carry change in COI.
- But company give CG order to ROC
- After Reg. of Name u/s 16, company can still change Name u/s 13.
- Defaults → penalty
 - co. → 1000 per Day
 - officer → min: 5000 max: 10000
- Name change of company does not meaning of dissolved company & New company Does not come into existence.
- All Rights & obligations or legal proceedings does not affected from change of name.
- upto 2 years of Name change
 - former (old)
 - New
 everywhere print, affix or sign

some special points :-

Name Reservation :- SPICE⁺ → INC 32
validity → 20 Days
↓
New company

RUN → 60 days



Existing company

SITUATION OR REGISTERED

OFFICE CLAUSE

→ 2nd clause of MOA

→ This clause contains the name of state in which Reg. office of co. is situated.

→ Exact Address of co's reg. office is not required by this clause.

→ Address should be physical location, It means there should be someone who can receive communication for business hours, (P.O. - X)

→ The places where No. of company is located, the Reg. office of co. is required to affix, print, engraved either on Business letterheads, Advertisement, PAN, Hundi, BOE, Bill Book etc.

→ Nationality on the basis of company's Reg. office decided
Domicile address.

→ So, if any point of time Reg. office is changed from one state to another, then it is called as Alteration of MOA. Section 13 of COA Act, 2013. But if Reg. office changed but state is same, then this is not to be called as Alteration of MOA.

- 17 change within town, village, city
- 27 change from city to another city BUT within same state & with same ROC
- 37 change from city to another city BUT within same state & different ROC
- 47 change from one state to another state

* In all these above 3 cases (1, 2, 3) $\Rightarrow$ sec: 13 $\rightarrow$ Alteration of MOA IS NOT APPLICABLE

SO, SEC: 12 IS APPLICABLE

* BUT, in case 4, SEC: 13 $\rightarrow$ Alteration of MOA IS APPLICABLE

- 17 change of Reg. office within same city, town & village :-

$\rightarrow$ Pass Board Resolution & also communicate with ROC within 30 days

$\rightarrow$ This is NOT called as Alteration of MOA

- 27 change of Reg. office from one city to another city within same state & same ROC

$\rightarrow$ Pass SR.

$\rightarrow$ MGT-14 to be filed with ROC within 30 days from passing of SR

$\rightarrow$ This is NOT called as Alteration of MOA

- 37 change of Reg. office from one city to another city within same state but different ROC

$\rightarrow$ This case is only applicable in two states. Because these 2 states have 2 ROC each.

Maharashtra

Tamil Nadu

Mumbai Pune Chennai Coimbatore

→ Pass SR

→ MGT-14 needs to be filed with ROC within 30 days of passing SR.

→ Permission from RD

→ RD gives Approval / Rejection on such Application within 30 days.

→ Company communicate the confirmation from ROC within 60 days from confirmation

→ ROC Register the New Address & communicate the company within 30 days.

* This is NOT be called as Alteration of MOA u/s 13.

47 change of Reg. office from one state to another state :-

→ This is to be considered as Alteration of MOA u/s 13

→ Pass SR

→ MGT-14 needs to be filed with ROC within 30 days from passing SR

→ Application to CA → RD (INC-23)

→ fees

→ Documents

→ AOA/MOA along with Proposed changes

→ copy of Resolution passed

votes in favour votes in against

→ copy of Alteration along with MOA/AOA has already sent to state govt & their Acknowledgement.

→ list of creditors & deb. holders

→ RD/CG gives confirmation on such Application within 60 days from date of Application

→ CG before giving Approval

consent of credi/deb. holder
prov. made to discharge the company has Adequate security to discharge deb.

→ New ROC

MOA along with alteration

copy of CG/RD Approval

OLD ROC

→ New ROC Register change & issue new certificate of Incorporation.

→ SG can not denies the change of Reg.

CG before passing order has to

office from one state to another state on the ground of loss of revenue to state.

consider the Representation from employees opinion

→ Co. Before Application to CG/RD

for change of Reg. office from one state to another

Not more than 30 days

→ company has to publish Advertisement for change of Reg. office from one state to another

vernacular language English
News paper New Paper

OBJECT CLAUSE

- 3rd clause of MOA
- One of the most important clause of MOA
- This clause contains the powers or scope of the company
- It defines the main objectives of the company or any other incidental objectives.
- Now, every subscribers of MOA is free to choose their objectives. They can choose any objective but the objective must not be illegal & should not be beyond the provision of company Act, 2013.
- This clause defines the Actual capability of company
- This clause need to be drafted with the experts opinion & with being cautious &

careful. Because Any Act which is beyond the object clause can be ultra vires.
(Ref: Ashbury Railways & Ironworks Riche)

Question: CAN company change its objectives?

YES ⇒ Alteration of MOA u/s 13 of co. Act, 2013

* How to Alter the MOA Under Object clause

- Pass SR By member in meeting
- MGT-14 needs to be filled with ROC with in 30 days from passing SR
- ROC shall register the same & communicate to co. with in next 30 days along with New COI.
- New objectives are effective from the date of New COI.

→ If company is changing its objectives but company has raised money through prospectus & company still has unutilised amt, then co. change objectives only when:-

(i) PASS SR

(ii) file MGT-14 → 30 days

(iii) Exit option given to listed shareholder as per SEBI

(iv) publish Advertisement

vernacular language Newspaper
English Newspaper
company Website

→ Notice to members by SR

(i) Total Money Raised

(ii) Utilised on objectives (current)

(iii) Unutilised

(iv) New features / factors

(v) Justification

(vi) Impact on cash flow due to change

(vii) Any other detail which member required

LIABILITY CLAUSE

Limited liability

Unlimited liability

limited by shares

limited by Guarantee

• Personal Assets of members can be used to pay debt of co.

limited upto the value of unpaid value shares

limited upto the value of Guarantee

• Members are not directly liable towards creditors, they are liable towards company

Going @ liquidation of concern

only at time of liquidation, to contribute in Assets of company

→ Liability clause can not be Altered
(Sec: 13 is not Applicable)

→ Sec: 18 (conversion of company) is
Applicable

CAPITAL CLAUSE

Refer :- ch: 4

ASSOCIATION CLAUSE

Name	No. of	signature	witness sign
Address	shares		
occupation		Name	
Nationality	(At least one)	occupation	
↓		Nationality	
subscriber		↓	

Verify the
sign of subscriber

→ This clause can not be Altered

NOMINEE CLAUSE

→ only on OPC

→ This clause contains the name of person
who will become member in case of
death / incapacity of subscriber

→ Nominee can be changed for 'x' No.
of times.

→ This clause is not to be called as
Alteration of MOA (Sec: 13)

concept 19: AOA

Alteration

Alteration of AOA (Section: 14)

→ Articles of Association of co. can be
Altered by passing SR by the members
in the meeting.

→ But AOA Alteration
must not contain

UNDEFINED CLASS

Beyond illegal or must be Bonafide exclusion
the MOA opposed in interest intention of
& co. Act to pub. of the the
policy company 2 members

→ If due to Alteration of MOA & it
effect the conversion of public into
PVT or vice versa

So, in case pub. co. is converted into
PVT

(EE: 92) Alteration of MOA

Approval of CA is required

(Sec: 180) : Pt 190

It must be informed to ROC within 15
days from Application of CA,
Articles has been Altered.

New AOA? Altered file → ROC
AOA

concept 20: Sec: 115

→ Alteration must be Noted in every copy
of AOA & MOA

If Articles or MOA has been Altered
as per Sec: 14 & Sec: 13 respectively

If Not complied

penalty → ₹ 1000 per copy

Concept 21: Section 10

Effects of MOA & AOA

Members are	co. is liable	Members are	MOA & AOA
liable	towards	not liable	Binds the
towards	Member	towards	member & co
co.		each	But doesn't
		other	Binds the
			outside

concept 22 : Section 193

on the Request of Members

copy of MOA
copy of AOA
Resolution & Agreement copy

Default

1000 per day

Maxi: 1,00,000

must be sent by co within 7 days from date of Request on payment of prescribed fees

concept 23 : Authentication

AOA SECTION 21 sign

Document procedure

on the behalf of co

KMP

Key Managerial person

CEO
MD

CFO

WTD

CS

one Rank below post of director

agreed by BOD

Any officer/employee of co.

authorised by BOD

concept 24 : Articles of Association

→ AOA are the Rules & Regulation of the company

→ They are formed for the Management or BOD of the company internally

→ So, AOA are known as Internal Regulations of the company

→ They are the subsidiary of MOA

→ MOA > AOA

→ These AOA should / defines the Relationship of Rights & duties between the members of company & company.

→ They are called Bye-Laws of the co.

→ AOA are performed to set some Rules & Regulations for the working of the directors, officers of the co.

→ Model A AOA of a listed firm + schedule 1 of the co. Act which has bifurcated into Table F, G, H, I, J AOA

→ Any other matter which is necessary to regulate the functioning of the company. (Additional matters can also be included in AOA.)

Table F :- co. limited by share

Table G :- co. limited by Guarantee having share capital

Table H :- co. limited by Guarantee not having share capital

Table I :- co. unlimited by Guarantee having share capital

Table J :- co. unlimited by Guarantee not having share capital, AOA

concept 25: Entrenchment Provision

→ New provision in co. Act, 2013

→ AOA of the co. can be altered by special Resolution (General Rule)

pass by members of co.	ordinary Resolution	special Resolution	unanimous Resolution
	Majority more than 50%.	Majority more than 75%.	Majority 100%.
	1/2	3/4	

→ BUT AOA of a co. contains entrenchment provision then situation will be difficult.

This is an Additional Restriction to Alter AOA.

so, here AOA of co. will not be altered only by passing SR.

Entrenchment

provisions can be incorporated in AOA

At time of the incorp. of the company

AT any point of time

PVT co.

pub co.

↓
Unanimous resolution

↓
Special Resolution

→ **section 20** service of document

→ **section 22** Execution of Bills of Exchange, hundis etc.

↓
Refer for the both the above section 20 & 22

↓
pg no: 43 & 44 AOA