

Topics

Corporate Veil & Cases

Types of Companies

Registration

Doctrine
 ↳ UV
 ↳ DOCN
 ↳ DOIM

Companies Act 2013

(21 marks)

Introduction	Corporate Veil & Cases	Class of Companies	Partners	Main Financial Institutions (MFI)	Registration
<p>UV - Not meant to control and control the law relating to the companies</p> <p>When - 2014 Appellate (Appellate) 2014 Appellate (Appellate)</p> <p>Meaning - Jurisdiction with respect to Company in the Act - Section 2(20) - Any Corporate body governed by Companies Act 2013</p> <p>Corporate Veil Theory - It is stated with a legal personality / certain effects from shareholders in the form of a company does not have direct liability</p> <p>Legal Personality - Law has a person created by law not effected by death in insolvency of members</p> <p>Limited Liability - Limited liability is extent of the personal value of shares, shareholders not be held liable for anything more than they invested value</p> <p>Shareholder Responsibility - Not liable for anything being wrong up or beyond</p> <p>Legal Personality - Not liable for anything being wrong up or beyond</p> <p>Legal Personality - Not liable for anything being wrong up or beyond</p>	<p>Legal Personality - created by a process known as incorporation under the Companies Act 2013</p> <p>Company limited by Shares - Section 2(20) - liability of members is limited by the amount unpaid on shares</p> <p>Company limited by Guarantee - 2013 member liability limited by contribution, to the amount guaranteed, to be called up only on winding up</p> <p>Unlimited Company - 2013 liability of members is unlimited, only of winding up, liability cannot be restricted</p> <p>Private Company - 2013 - Section 2(68) - not liable for anything being wrong up or beyond</p> <p>Public Company - 2013 - Section 2(69) - liability of members is unlimited, only of winding up, liability cannot be restricted</p> <p>Section 2(68) - Private Company - not liable for anything being wrong up or beyond</p> <p>Section 2(69) - Public Company - liability of members is unlimited, only of winding up, liability cannot be restricted</p>	<p>Partners - 2013 - Section 2(68) - not liable for anything being wrong up or beyond</p> <p>Section 2(68) - Private Company - not liable for anything being wrong up or beyond</p> <p>Section 2(69) - Public Company - liability of members is unlimited, only of winding up, liability cannot be restricted</p>	<p>Partners - 2013 - Section 2(68) - not liable for anything being wrong up or beyond</p> <p>Section 2(68) - Private Company - not liable for anything being wrong up or beyond</p> <p>Section 2(69) - Public Company - liability of members is unlimited, only of winding up, liability cannot be restricted</p>	<p>Main Financial Institutions (MFI) - 2013 - Section 2(68) - not liable for anything being wrong up or beyond</p> <p>Section 2(68) - Private Company - not liable for anything being wrong up or beyond</p> <p>Section 2(69) - Public Company - liability of members is unlimited, only of winding up, liability cannot be restricted</p>	<p>Registration - 2013 - Section 2(68) - not liable for anything being wrong up or beyond</p> <p>Section 2(68) - Private Company - not liable for anything being wrong up or beyond</p> <p>Section 2(69) - Public Company - liability of members is unlimited, only of winding up, liability cannot be restricted</p>

Units 1

- Elements of Partnership
- True test of Partnership
- Kinds of Partnership
- Types of Partners

Partnership Act 1932 (21 marks)

<p>Elements of Partnership</p> <p>Agreement - Intentional, contractual relation of co-ownership</p> <p>Business - existence of business - parties should be dispositive of profits</p> <p>Agreement to share profits - essential feature of partnership - sharing profits - sharing loss is not essential - sharing of profits - sharing of losses - sharing of profits - sharing of losses</p> <p>True test of Partnership</p> <p>Kind of Partnership</p> <ul style="list-style-type: none"> 1. General 2. Limited 3. Special 4. Joint 	<p>Types of Partners</p> <p>Active/Visible Partner - Share in ordinary course of business, must give a public notice on membership</p> <p>Sleeping/Concealed Partner - Share in profits but not in the ordinary course of business</p> <p>Partner in Name Only - Share in profits but not in the ordinary course of business</p> <p>Partner by holding Out - Share a portion of profits and is a partner for all intents and purposes</p> <p>Partner by holding In - Share a portion of profits and is a partner for all intents and purposes</p> <p>Partner by holding In - Share a portion of profits and is a partner for all intents and purposes</p> <p>Partner by holding In - Share a portion of profits and is a partner for all intents and purposes</p>	<p>Capacity of Partners</p> <p>Age - 18 years</p> <p>Mental Capacity - sound mind</p> <p>Legal Capacity - not a partner if a partner by holding out</p> <p>Partnership Property - property acquired by the firm</p> <p>Partnership Debts - debts of the firm</p> <p>Partnership Accounts - accounts of the firm</p> <p>Partnership Dissolution - dissolution of the firm</p>	<p>Legal Autonomy of Partnership</p> <p>Partnership Property - property acquired by the firm</p> <p>Partnership Debts - debts of the firm</p> <p>Partnership Accounts - accounts of the firm</p> <p>Partnership Dissolution - dissolution of the firm</p> <p>Partnership Property - property acquired by the firm</p> <p>Partnership Debts - debts of the firm</p> <p>Partnership Accounts - accounts of the firm</p> <p>Partnership Dissolution - dissolution of the firm</p>	<p>Partnership Property - property acquired by the firm</p> <p>Partnership Debts - debts of the firm</p> <p>Partnership Accounts - accounts of the firm</p> <p>Partnership Dissolution - dissolution of the firm</p> <p>Partnership Property - property acquired by the firm</p> <p>Partnership Debts - debts of the firm</p> <p>Partnership Accounts - accounts of the firm</p> <p>Partnership Dissolution - dissolution of the firm</p>	<p>Partnership Property - property acquired by the firm</p> <p>Partnership Debts - debts of the firm</p> <p>Partnership Accounts - accounts of the firm</p> <p>Partnership Dissolution - dissolution of the firm</p> <p>Partnership Property - property acquired by the firm</p> <p>Partnership Debts - debts of the firm</p> <p>Partnership Accounts - accounts of the firm</p> <p>Partnership Dissolution - dissolution of the firm</p>	<p>Partnership Property - property acquired by the firm</p> <p>Partnership Debts - debts of the firm</p> <p>Partnership Accounts - accounts of the firm</p> <p>Partnership Dissolution - dissolution of the firm</p> <p>Partnership Property - property acquired by the firm</p> <p>Partnership Debts - debts of the firm</p> <p>Partnership Accounts - accounts of the firm</p> <p>Partnership Dissolution - dissolution of the firm</p>
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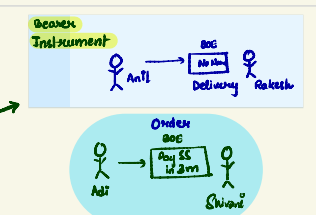
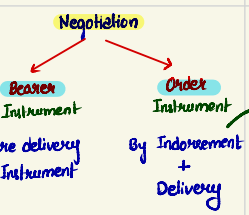
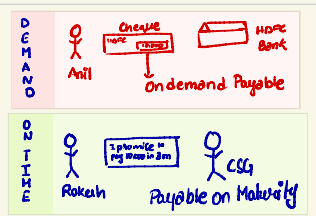
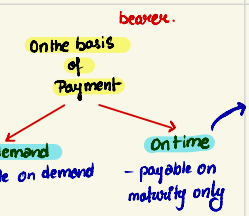
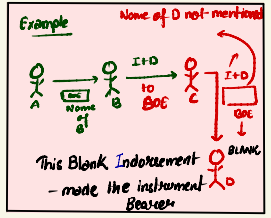
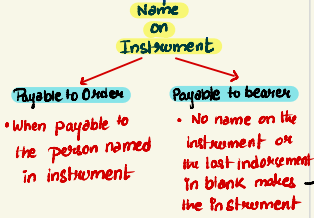
(14 marks)

Negotiable Instruments

Introduction

- Nothing in the act applies to RBI
- Date of applicability **1st March 1881**
- Negotiable Instruments cover
 - Section 13
 - Promissory Note
 - Bills of Exchange
 - Cheques

On basis of Parties



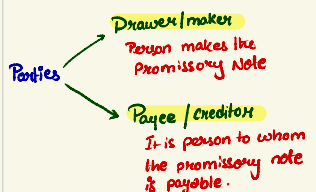
- Characteristics of Negotiable Instruments**
- TWS** (Writing, Signed, Transferable freely)
 - headphone** (have, mode, Money Only)
 - Cheap DNR** (No Defects in title of holder, Number of times)

Promissory Note

Section 4 - It is an instrument in writing (not being a bank note or a currency note) containing an unconditional undertaking signed by maker, to pay a certain sum of money only to, or to the order of, a certain person, or to the bearer of the instrument.

But RBI prohibits issue of bearer instrument as only they can issue bearer promissory note which is currency.

Only RBI has the Power

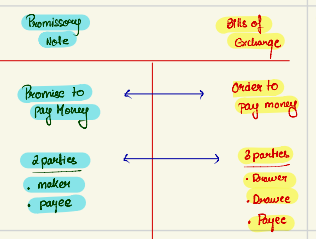
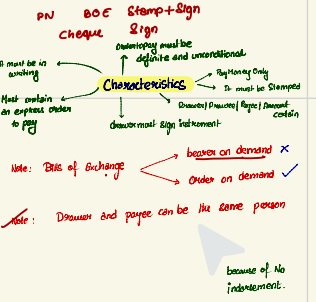


- Characteristics of Promissory Note**
- In writing
 - Express Promise to Pay (Only Admission of payment is not enough)
 - Definite & Unconditional (eg. like instalment payment but if condition is certain eg. death it is allowed)
 - Promissory note should be signed
 - Money Only
 - Promise to Pay (certain sum of money direct or indirectly indicated)
 - Promissory Note cannot be made to bearer
 - Initials on the Stamp (Initials on Stamps)

Bills of Exchange

A Bill of Exchange is an instrument in writing containing an unconditional order, signed by maker, directing a certain person to pay a certain sum of money only to, or to the order of, a certain person, or to the bearer of the instrument.

- Parties Involved**
- Drawer** - Maker of the Bill
 - Drawee** - Acceptor of the Bill
 - Payee** - to whom payment is made in the instrument



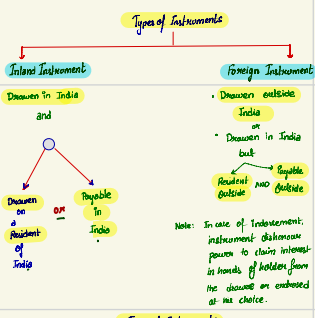
- Promissory Note** does not require acceptance
- Promissory Note** cannot be made payable to bearer
- Acceptance** is compulsory
- Can be made to bearer**

Cheque

A cheque is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand and it includes the electronic image of a truncated cheque.

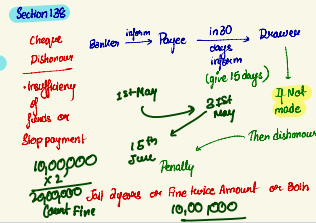
- Electronic image of the cheque is a **electronic cheque** issued by bank.
- Truncated cheque is a cheque used as a **Scan Image** in the clearing house facility of the bank.

- Parties to the Cheque**
- Drawer - Person making the cheque
 - Drawee - Bank on whom cheque is drawn
 - Payee - The person named in the instrument, to whom payment is made. The payee may be drawer himself.
- Note:** Where another Drawee's name is entered as a Drawee in case of need.



- Types of Instruments**
- Unilateral Instrument**
 - Incomplete in certain respect
 - drawn instrument leaving it wholly blank
 - Power to holder to complete and receive payment
 - The principle of estoppel applies in case of an unaccepted instrument
 - Ambiguous Instruments**
 - Where the instrument can be treated as a bill of exchange on promissory note, and the way it is completed by the holder follows the same. In other words, the instrument can be construed as bill or PN

Dishonour of Cheque



Section 127

Presumption that the holder has acquired cheque in good faith.

Rebuttable Presumption

Section 140

No defence if drawer says that he is unwise.

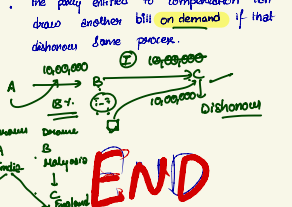
Dishonour Meaning - It refers to the act of making the instrument available for the purpose of getting paid.

Section 132 - If any person after a period of 15 days from the date of maturity of the instrument, presents the instrument for payment, the instrument shall be deemed to have been dishonoured.

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Rules for Compensation

- Section 117**
- Amount + litigation (Protest Charges) + Presentment charges
 - If in different countries then exchange rate difference
 - ₹ = 70
 - ₹ = 80
 - Interest at the rate 18% p.a. on amount of dishonour paid to endorser from date of dishonour
 - If Drawer and Endorser at different places then exchange rate between two places (Advance)



Section 140

No defence if drawer says that he is unwise.

Section 132

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Section 150

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END of NEGIO

#CSG

law ka teacher



Financial Year

Small LLP 2(ta) =

After 20th Sept
29th Sept 2024 - 31/3/2025
1st Oct 2024 - 31/3/2026

Capital Contribution ≤ 25 lacs
Turnover ≤ 40 lacs
PY

20mins
Resume at 9:20 pm

LLP 2008

31/3/2025 - 1/4/2025

1-17

Q2(b)

Chapters 14
Sections 61
Schedule 4

Meaning
to vs firm - Alternate Corporate Vehicle
- Separate Legal Entity
- Limited Liability
- Liability shifted to LLP
- flexible structure

Section 4 - IPA 1932 Not Applicable on LLP
Section 5 - Any Individual or Body Corporate can be Partner
except -
U - Unsound Mind
U - Undischarged Insolvent
I - Insolvent Application pending
2 - Insolvency - solvency status

Section 6 - Minimum 2 Partners
Case study
Section 7 - At least 2 national Person as DP
DP 2
2 Body Corporate can form LLP by Appointing 2 nominees or 2 Partners as DP (National Person)

Characteristics
Company
- Separate Legal Entity
- Body Corporate
- Artificial Legal Person
- Common Seal
- Limited Liability
Partners
- Management of business
- Mutual Agency
- Min 2
- No Limit
- Foreign LLP
- Filing of documents
- Foreign LLP
- Capital Contribution
- 20% ROC
- 20% from FY out

Section 11 - Incorporation document + 2 partners (Business + Profit)
Statement by CA/CS/CMA/Chartered Accountant
Penalty -
10,000 to 5 lacs
24000
6 - 2 = 10,000

Section 12 - The LLP shall receive the incorporation document within 4 days of submission.
Conclusive Evidence of Registration
Section 13 - Inform ROC (Registered Office)
Any change also communicable
Penalty 100 per day upto 5000

Section 14 - Effect of Registration
1. Can sue or be sued
2. Common seal
3. Own, dispose, charge, mortgage immovable property
4. Each other act as applicable to LLP

Section 15 - LLP added to the Name
Name not to be undecipherable or Fictitious
Section 16 - Name reservation can apply for 3 months
Section 17 - Co can order for change of Name
LLP to comply in 30 days
Failure - Co shall (re)order change of Name
Penalty 100 per day upto 5000

Section 22 - The agreement contains Right & Duties
Section 23 - Any changes in agreement shall be notified by all partners
However for matters not mentioned in the agreement follows Schedule I
Section 24 - Automatic End
- Unsound
- Insolvent
- Death
Partners - Capital
Profits - Losses = NET
note: NO Interference of retired Partner

Section 25 - Partner change - Name Inform LLP 15 days
Penalty 100 per day
Section 26 - Every Partner is the agent of the LLP
Section 27 - Activity performed within Authority
Propose of business
LLP is responsible for all wrongful act on omission-liabilities to be met out of LLP Assets
Section 28 - Partner shall make the LLP liable for Authority
Propose of Business
Penalty 100 per day upto 5000

Section 29 - Holding Out
- Where a person by words spoken or written
- represents himself, as a partner
- Any credit given to the LLP for this representation
- the LLP shall be responsible to refund the amount
- Any benefit arising from such amount shall be restored

Section 30 - Fraud
- Where the LLP is involved in fraud or
- Any of the partners along with partners are involved in fraud
Penalty 100 per day upto 5000

Section 31 - While allowing involves waiver of penalty
If such information leads to conviction
Section 32 - Proper Books of Accounts - Annual/6 months
Statement of Solvency - Statement of Accounts
LLP 30000 to 25 lacs
Annual Return ROC
Penalty 100 per day upto 5000

Section 33 - While allowing involves waiver of penalty
If such information leads to conviction
Section 34 - Proper Books of Accounts - Annual/6 months
Statement of Solvency - Statement of Accounts
LLP 30000 to 25 lacs
Annual Return ROC
Penalty 100 per day upto 5000

Section 58 - Old Registration
- Normal Partnership Firm
- Company Act
- Inform Old Registrar in 15 days
New Registration
- Inform Old Registrar in 15 days
- Inform Old Registrar in 15 days
- Inform Old Registrar in 15 days
- Inform Old Registrar in 15 days

Section 63 - Partners can dissolve LLP with approval of tribunal
Section 64 - Cases in which tribunal can dissolve the firm
- If LLP decides to wind up
- If LLP continues > 6 months with one partner
- If LLP is unable to pay debts
- It is against the S I S of India
Sovereignty Integrity Security
LLP defaults in filing of Statement of Solvency or annual Return in 5 consecutive Years

Section 65 - Penalties
- 100 per day upto 5000
- 100 per day upto 5000
- 100 per day upto 5000

END of LLP