

# ALL DISTINGUISH BETWEEN (16 Marks)

## SMALL COMPANY VS. INACTIVE COMPANY:

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### **Small Company:**

The term 'small company' has been defined under **Section 2(85)**. As per this, small company means a company, **other than a public company**, -

(i) Paid-up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed which shall not be more than **Ten** Crores rupees; **AND**

(ii) Turnover of which as per profit and loss account for immediately preceding financial year does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than **One Hundred** Crores rupees.

Provided that nothing in this clause shall apply to –

- (A) A holding company or a subsidiary company;
- (B) A company registered under section 8; or
- (C) A company or body corporate governed by any special Act.

It is basically a private company meeting prescribed threshold.

### **Inactive Company:**

“inactive company” means a company which has not been carrying on any business or operation, or has not made any significant accounting transaction during the last two financial years, or has not filed financial statements and annual returns during the last two financial years;

Where a company is formed and registered under this Act for:

- a future projector
- to hold an asset or intellectual property and
- has no significant accounting transaction,

Such a company or an inactive company may make an application to the Registrar in such manner as may be prescribed for obtaining the status of a dormant company.

## DEPOSITS VS. DEBENTURES

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### **Deposits:**

- ❖ Deposit *includes* any receipt of money by way of deposit or loan or in any other form by a company, *but does not include* such categories of amount as may be prescribed in consultation with the Reserve Bank of India.
- ❖ Minimum period – **6 months** from the date of acceptance of deposit
- ❖ Maximum period – **36 Months** from the date of acceptance or renewal of such deposit
- ❖ Every company referred in section 73(2) (except Private Company) or any Eligible Company inviting accepting deposits from members has to deposit before the 30th day of April of each year, a amount of **not less than 20% of its deposits maturing during the following financial year** and kept in a scheduled bank in a separate bank account to be called as deposit repayment reserve account.

### **Debentures:**

- ❖ “Debenture includes Debentures Stock, bonds and any other securities of a company whether constituting a charge on the assets of the company or not.

*Provided that—*

*(a) the instruments referred to in Chapter III-D of the Reserve Bank of India Act, 1934; and  
(b) such other instrument, as may be prescribed by the Central Government in consultation with the Reserve Bank of India, issued by a company, shall not be treated as debenture;”*

- ❖ Secured debentures can be issued subject to the maximum redemption period i.e. **not exceeding 10 years** from the date of issue. A company engaged in the setting up of **infrastructure projects** may issue secured debentures for a period exceeding 10 years but not exceeding 30 years.
- ❖ When debentures are issued by a company, the company shall create a debenture redemption reserve account out of the profits of the company, shall not be utilized by the company except for the redemption of debentures.

## **REGISTRATION OF CHARGE VS. SATISFACTION OF CHARGE**

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### **Registration of Charge:**

- Every company is responsible to create a charge within or outside India on its property or assets by registering the particulars of the charge duly signed by the company and the charge-holder. The company is responsible to register the charge within 30 days from the date of its creation.
- Form CHG – 1 (For other than the debentures) or Form CHG – 9 (for debentures) shall be filed by the Company with ROC for registration of charge.
- Provided that the Registrar may, on an application by the company, allow such registration to be made
  - (a) in case of charges created before the commencement of the Companies (Amendment) Ordinance, 2018, within a period of three hundred days of such creation; or
  - (b) in case of charges created on or after the commencement of the Companies (Amendment) Ordinance, 2018, within a period of **sixty days** of such creation, on payment of such additional fees as may be prescribed:
- Provided further that if the registration is not made within the period specified:
  - (a) in clause (a) to the first proviso, the registration of the charge shall be made within six months from the date of commencement of the Companies (Amendment) Ordinance, 2018, on payment of such additional fees as may be prescribed and different fees may be prescribed for different classes of companies;
  - (b) in clause (b) to the first proviso, the Registrar may, on an application, allow such registration to be made within a further period of sixty days after payment of such advalorem fees as may be prescribed;

### **Satisfaction of Charge:**

- Satisfaction of charge means full payment of the outstanding loan amount. After making full payment to the Bank or Charge holder, the company has to inform to the ROC for registration of the satisfaction of charge.
- The Company or Charge holder shall give intimation to the ROC in respect of the full payment or satisfaction in full of any charge within 300 days from the date of such payment or satisfaction in Form No. CHG – 4 along with the fee.
- Provided that the Registrar may, on an application by the company or the charge holder, allow such intimation of payment or satisfaction to be made within a period of three hundred days of such payment or satisfaction on payment of such additional fees as may be prescribed
- After completion of above formalities, the ROC will issue a certificate of registration for satisfaction in Form CHG – 4.

## PRODUCER COMPANY VS. INVESTMENT COMPANY

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### Producer Company:

- According to the provisions as prescribed under Section 581A(l) of the Companies Act, 1956, a producer company is a body corporate having objects or activities specified in Section 581B and which is registered as such under the provisions of the Act.
- The membership of producer companies is open to such people who themselves are the primary producers, which is an activity by which some agricultural produce is produced by such primary producers.
- There is no limit on Number of Layers of Subsidiary Company that can be formed by Producer Companies.

### Investment Company:

- the expression “investment company” means a company whose principal business is the acquisition of shares, debentures or other securities and a company will be deemed to be principally engaged in the business of acquisition of shares, debentures or other securities, if its assets in the form of investment in shares, debentures or other securities constitute not less than fifty per cent. of its total assets, or if its income derived from investment business constitutes not less than fifty per cent. as a proportion of its gross income.
- Investment companies can have only 2 layers of Subsidiary Companies.

## E-VOTING VS. POSTAL BALLOT

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### E-Voting:

- ❖ Every listed company or a company having One Thousand or more shareholders may provide to its members facility to exercise their right to vote at general meetings by electronic means. A member may exercise his right to vote at any general meeting by electronic means and company may pass any resolution by electronic voting system.
- ❖ The facility for Remote e-voting shall remain open for not less than three days.
- ❖ Voting by electronic or Electronic voting system means a ‘secure system’ based process of display of electronic ballots, recording of votes of the members and the number of votes polled in favour or against, such that the entire voting exercised by way of electronic means gets registered and counted in an electronic registry in a centralized server with adequate ‘cyber security’.

### Postal Ballot:

- ❖ Every company, except a company having less than or equal to two hundred Members, shall transact items of business as prescribed, only by means of postal ballot instead of transacting such business at a General Meeting.
- ❖ Section 2(65) – “Postal Ballot” means voting by post or through any electronic mode. The postal ballot is applicable to all types of companies except One Person Company, Small Company or Private Company or a Company having members upto 200.
- ❖ A listed company shall get Some resolutions passed by postal ballot, instead of transacting the business in general meeting of the company.

## REMOVAL OF DIRECTOR VS. RESIGNATION OF DIRECTOR

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### Removal of Directors: (Section 169)

- ❖ A Company may remove a director except the director appointed by NCLT, before the expiry of the period of his office after giving him a **reasonable opportunity of being heard** and passing the **ordinary resolution**.
- ❖ A special notice of the meeting shall be required of such resolution, to remove a director or to appoint somebody in place of a director so removed.

- ❖ On receipt of notice of a resolution regarding removal of a director, the company shall forthwith send a copy thereof to the director concerned.
- ❖ A vacancy created by the removal of a director may, if he had been appointed by the company in general meeting or by the Board, be filled by the appointment of another director in his place at the meeting at which he is removed, provided special notice of the intended appointment has been given.
- ❖ A director so appointed shall hold office till the date up to which his predecessor would have held office if he had not been removed.

#### **Resignation of Director: (Section 168)**

- ❖ A director may resign from his office by giving notice in writing. The Board shall, on receipt of such notice within 30 days intimate the Registrar in Form DIR-12 and also place the fact of such resignation in the Directors' Report of subsequent general meeting of the company and post the information on its website.
- ❖ The director shall also forward a copy of resignation alongwith detailed reasons for the resignation to the Registrar in Form DIR-11 within 30 days from the date of resignation.
- ❖ The notice shall become effective from
  - (i) the date on which the notice is received by the company; or
  - (ii) the date, if any, specified by the director in the notice, whichever is later.
- ❖ The director who has resigned shall be liable even after his resignation for the offences which occurred during his tenure.

#### **ALTERNATE DIRECTOR VS. ADDITIONAL DIRECTOR**

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##### **Alternate Director: [Section 161(2)]**

- The Board of Directors of a company may, if so authorized by its articles or by a resolution passed by the company in general meeting, appoint a person, not being a person holding any alternate directorship for any other director in the company or holding directorship in the same company, to act as an alternate director for a director during his absence for a period of not less than three months from India:
- Provided further that an alternate director shall not hold office for a period longer than that permissible to the director in whose place he has been appointed and shall vacate the office if and when the director in whose place he has been appointed returns to India (Tenure)

##### **Additional Director: [Section 161(1)]**

The Board can appoint additional directors provided they are authorized by the Articles of Association of the Company. The additional director shall hold office only upto the date of next annual general meeting or the last date on which the annual general meeting should have been held, whichever is earlier.

In case, the AGM gets postponed due to any reason, the additional director has to vacate his office on the date of AGM.

A person who fails to get appointed as a director in a general meeting cannot be appointed as Additional Director.

#### **REDEMPTION OF SHARES VS. REDEMPTION OF DEBENTURES (JUNE 2018)**

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##### **Redemption of Shares:**

- ❖ According to Section 55, no company limited by shares shall issue irredeemable preference shares or preference shares redeemable after the expiry of 20 years from the date of issue.

- ❖ A company may redeem its preference shares only on the terms on which they were issued and the preference shares may be redeemed:
  - (a) at a fixed time or on the happening of a particular event;
  - (b) any time at the company's option;
  - (c) any time at the shareholder's option;
- ❖ A company which has issued redeemable preference shares, shall transfer a sum equal to nominal amount of the shares to be redeemed, to a Capital Redemption Reserve Account.
- ❖ A company can redeem preference shares in the following two ways:
  - (a) redemption of preference shares out of profits which is available for dividend;
  - (b) Redemption of preference shares out of the proceeds of a fresh issue of shares made for the purpose of such redemption;

#### **Redemption of Debentures:**

- ❖ Secured debentures can be issued subject to the maximum redemption period i.e. **not exceeding 10 years** from the date of issue. A company engaged in the setting up of **infrastructure projects** may issue secured debentures for a period exceeding 10 years but not exceeding 30 years.
- ❖ When debentures are issued by a company, the company shall create a debenture redemption reserve account out of the profits of the company, shall not be utilized by the company except for the redemption of debentures.
- ❖ The Company shall create a Debenture Redemption Reserve (DRR) for the purpose of redemption of debentures subject to the following conditions :
  - (a) DRR shall be created out of the profits which is available for payment of dividend. (from Free Reserves)
  - (b) The company shall create DRR as follows:
    - (i) No DRR is required for Financial Institution & Bank.
    - (ii) The DRR should be maintained at least 25% of the value of debentures issued by the NBFCs registered with RBI.
    - (iii) For other companies including listed & unlisted, the DRR should be maintained at least 25% of the value of debentures.
- ❖ Every Company required to create DRR shall on or before the 30<sup>th</sup> day of April in each year. **Not less than 15%** of the Total amount in the DRR shall deposit or invest the specified fund or bank.
- ❖ In case of partly convertible debentures, DRR shall be created in respect of **non-convertible portion** of debenture issue.
- ❖ The amount credited to the DRR shall not be utilized by the company except for the purpose of redemption of debentures.

#### **OPPRESSION & MISMANAGEMENT APPLICATION AND CLASS ACTION SUITS (JUNE 2018)**

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##### **Oppression & Mismanagement Application (Section 241)**

- Any member of a company who complains that—
  - (a) the affairs of the company have been or are being conducted in a manner prejudicial to public interest or in a manner prejudicial or oppressive to him or any other member or members or in a manner prejudicial to the interests of the company; or
  - (b) the material change, not being a change brought about by, or in the interests of, any creditors, including debenture holders or any class of shareholders of the company, has taken place in the management or control of the company, whether by an alteration in the Board of Directors, or manager, or in the ownership of the company's shares, or if it has no share capital, in its membership, or in any other manner whatsoever, and that by reason of such change, it is likely that the affairs of the company will be conducted in a manner prejudicial to its interests or its members or any class of members,

may apply to the Tribunal, provided such member has a right to apply under section 244, for an order under this Chapter.

### **Class Action Suits: (Section 245)**

- ❖ The requisite number of members provided in sub-section (1) shall be as under:—
  - (a) in the case of a company having a share capital, not less than one hundred members of the company or not less than 10% of the total number of its members as may be prescribed, whichever is less, or any member or members holding not less than 10% of the issued share capital of the company as may be prescribed, subject to the condition that the applicant or applicants has or have paid all calls and other sums due on his or their shares;
  - (b) in the case of a company not having a share capital, not less than one-fifth of the total number of its members.
- (ii) The requisite number of depositors provided in sub-section (1) shall not be less than one hundred depositors or not less than 10% of the total number of depositors as may be prescribed, whichever is less, or any depositor or depositors to whom the company owes 10% of total deposits of the company as may be prescribed.
- ❖ Such number of member or members, depositor or depositors or any class of them, as the case may be, as are indicated in sub-section (3) may, if they are of the opinion that the management or conduct of the affairs of the company are being conducted in a manner prejudicial to the interests of the company or its members or depositors, file an application before the Tribunal on behalf of the members or depositors for seeking all or any of the following orders, namely:—
  - (a) to restrain the company from committing an act which is **ultra vires** the articles or memorandum of the company;
  - (b) to restrain the company from committing **breach of any provision** of the company's memorandum or articles;
  - (c) to declare a resolution altering the memorandum or articles of the company as void if the resolution was passed by **suppression of material facts** or obtained by mis-statement to the members or depositors;
  - (d) to restrain the company and its directors from acting on such resolution;
  - (e) to restrain the company from doing an act which is contrary to the provisions of this Act or any other law for the time being in force;
  - (f) to restrain the company from taking action contrary to any resolution passed by the members;

### **XBRL TAGS AND XBRL TAXONOMIES (JUNE 2018)**

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#### **XBRL Tags**

- In XBRL, information is not treated as a static block of text or set of numbers.
- Instead, information is broken down into unique items of data (e.g. total liabilities = 100). These data items are then assigned mark-up tags that make them computer-readable. For example, the tag <Liabilities>100</Liabilities> enables a computer to understand that the item is liabilities, and it has a value of 100.
- Computers can treat information that has been tagged using XBRL 'intelligently'; they can recognize, process, store, exchange and analyse it automatically using software.
- Because XBRL tags are formed in a universally-accepted way, they can be read and processed by any computer that has XBRL software. XBRL tags are defined and organized using categorization schemes called taxonomies.

**XBRL Taxonomies:**

- Different countries use different accounting standards. Reporting under each standard reflects differing definitions. The XBRL language uses different dictionaries, known as ‘taxonomies’, to define the specific tags used for each standard. Different dictionaries may be defined for different purposes and types of reporting.
- Taxonomies are the computer-readable ‘dictionaries’ of XBRL. Taxonomies provide definitions for XBRL tags, they provide information about the tags, and they organize the tags so that they have a meaningful structure.
- As a result, taxonomies enable computers with XBRL software to:
  - understand what the tag is (e.g. whether it is a monetary item, a percentage or text);
  - what characteristics the tag has (e.g. if it has a negative value);
  - its relationship to other items (e.g. if it is part of a calculation).This additional information is called meta-data. When information that has been tagged with XBRL is transmitted, the meta-data contained within the tags is also transmitted.
- Taxonomies differ according to reporting purposes, the type of information being reported and reporting presentation requirements. Consequently, a company may use one taxonomy when reporting to a stock exchange, but use a different taxonomy when reporting to a securities regulator. Taxonomies are available for most of the major national accounting standards around the world.

Points	Letter of allotment	Letter of renunciation
<b>Meaning</b>	Letter of allotment is a letter by which company communicates the subscriber to the shares that the company has allotted some shares to him.	When a company issue right shares it has to issue a letter stating that if shareholder do want to subscribe the shares, he can renounce the shares in favour of any other person. Such letter is known as letter of renunciation.
<b>Applicability</b>	Letter of allotment is applicable in all cases where shares are allotted to persons.	Letter of renunciation is applicable in case of right issue under Section 62 of the Companies Act, 2013.
<b>Option</b>	Letter of allotment do not contain any option.	Letter of renunciation contains an option to renounce the shares in favour of any other person.
<b>Surrender</b>	Letter of allotment is required to be surrendered to company for issue of share certificate.	Letter of renunciation is not required to be surrendered to company. In fact it is right to transfer to subscribe the right shares of the company.
<b>Transfer of shares</b>	Shares can be transferred with the help of letter of allotment if share certificate do not exist.	Shares cannot be transferred with the help of letter of renunciation. But right shares can be subscribed by the persons in whose favour the right has been renounced.

Points	Employees Stock Option Scheme	Employees Stock Purchase Scheme
<b>Meaning</b>	“Employee stock option scheme or ESOS” means a scheme under which a company grants employee ‘stock option’ directly or through a trust.	“Employee stock purchase scheme or ESPS” means a scheme under which a company offers shares to employees, as part of public issue or otherwise, or through a trust where the trust may undertake secondary acquisition for the purposes of the scheme.
<b>Purchase of shares</b>	Under ESOS employees are given an option to purchase shares at a later date i.e. after vesting period.	Under ESPS employees are given an option to purchase shares on the spot at a discounted price.
<b>Lock-in</b>	The company may specify the lock-in period for the shares issued pursuant to exercise of option.	Shares issued under an ESPS shall be locked-in for a minimum period of one year from the date of allotment.
<b>Public issue</b>	ESOS has to be approved separately by the company in general meeting by passing special resolution. It cannot be part of public issue.	Shares under ESPS can be issued as a part of a public issue.
<b>Vesting period</b>	Minimum vesting period for ESOS is one year.	No vesting periods for ESPS as shares are offered on the spot.
<b>Compensation Committee</b>	A company has to constitute Compensation Committee for administration & superintendence of the ESOS.	There is no such requirement for ESPS.

Points	Sweat Equity Shares	Issue of capital on preferential basis
<b>Meaning</b>	Sweat equity shares mean equity shares issued by a company to its employees or directors at a discount or	A preferential issue is an issue of shares or of convertible securities by listed companies to a select group of persons



	for consideration, other than cash for providing known-how or making available right in the nature of intellectual property rights or value additions, by whatever name called.	under Section 81 which is neither a rights issue nor a public issue.
<b>To whom issued</b>	Sweat equity shares are issued to employees or directors.	A preferential issue is an issue to a select group of persons
<b>How issued</b>	Sweat equity shares are issued at a discount or for consideration, other than cash.	A preferential issue is at par or at premium.

<b>Points</b>	<b>Alternation of Share Capital</b>	<b>Reduction of Share Capital</b>
<b>Meaning</b>	Alternation of share capital is governed by the provisions of <b>Section 64</b> of the Companies Act, 2013.	Reduction of share capital is governed by the provisions of <b>Section 66</b> of the Companies Act, 2013
<b>Resolution</b>	Alteration of share capital is required to be done by <b>ordinary resolution</b> .	Reduction of share capital is required to be done by <b>special resolution</b> .
<b>Tribunal Confirmation</b>	Alternation of share capital is <b>not</b> required to be <b>confirmed</b> by the <b>Tribunal</b>	Reduction of share capital is to be <b>confirmed</b> by the <b>Tribunal</b> .
<b>Examples</b>	Alternation of share capital may be done in the following manner: (1) Increasing its nominal capital by issuing new shares. (2) Consolidating and dividing all or any of its share capital into shares of large denomination. (3) Converting fully paid up shares into stock or vice versa (4) Sub-dividing its shares into shares of smaller amount. (5) Cancelling shares which have not been taken up and diminishing the amount of share capital by the amount of the shares so cancelled.	Reduction of share capital may be done in the following manner: (1) Extinguishing or reducing the liability of members in respect of the capital not paid up. (2) Writing-off or cancelling any paid up capital which is in excess of the needs of the company. (3) Paying off any paid up share capital which is in excess of the needs of the company.

<b>Points</b>	<b>Shelf Prospectus</b>	<b>Red-herring Prospectus</b>
<b>Meaning</b>	Shelf prospectus means a prospectus in respect of which the securities are issued for subscription over a certain period without the issue of a further prospectus.	Red herring prospectus means a prospectus which does not include complete particulars of the quantum or price of the securities offered.
<b>Section</b>	It is governed by Section 31 of the Companies Act, 2013	It is governed by Section 32 of the Companies Act, 2013.
<b>Applicability</b>	As per SEBI Guidelines, provisions of self prospectus are applicable to issue of securities in stages by public sector bands, scheduled commercial banks and public financial institutions.	Provisions of red herring prospectus are applicable to all companies except those are covered under shelf prospectus. The provision is mainly applicable for book building.
<b>Filing</b>	A company filing a shelf prospectus shall be required to file an information memorandum between the first offer of	A company proposing to issue a red herring prospectus shall file it with the ROC at least 3 days prior to the opening

	securities or the previous offer of securities and the succeeding offer of securities.	of the subscription list and the offer.
<b>Prospectus</b>	Where an information memorandum is filed, every time an offer of securities is made, such memorandum together with the shelf prospectus shall be deemed to be a prospectus.	A red herring prospectus shall carry the same obligations as are applicable to a prospectus and any variation between the red herring prospectus and a prospectus shall be highlighted as variations in the prospectus.

<b>Points</b>	<b>Red-herring Prospectus</b>	<b>Abridged prospectus</b>
<b>Meaning</b>	Red-herring prospectus means a prospectus which does not include complete particulars of the quantum or price of the securities offered.	Abridged prospectus means a memorandum containing such salient features of a prospectus as may be specified by the SEBI by making regulations in this behalf.
<b>Section</b>	It is governed by Section 32 of the Companies Act, 2013.	It is governed by Section 33 of the Companies Act 2013.
<b>Applicability</b>	Provisions of red herring prospectus are applicable to all companies except those are covered under shelf prospectus. The provision is mainly applicable for book building.	Provisions of abridged prospectus are applicable to all companies.
<b>Filing</b>	A company proposing to issue a red herring prospectus shall file it with the ROC at least 3 days prior to the opening of the subscription list and the offer.	Abridged prospectus is not required to be filed with ROC.
<b>Scope</b>	A red herring prospectus shall carry the same obligations as are applicable to a prospectus and any variation between the red herring prospectus and a prospectus shall be highlighted as variations in the prospectus.	No form of application for the purchase of any of the securities of a company shall be issued unless such form is accompanied by an abridged prospectus.

<b>Points</b>	<b>Notice of charge</b>	<b>Satisfaction of charge</b>
<b>Meaning</b>	When company taken a loan against some of the property of the company, giving it as security then company is required to notify the ROC. Such intimation to ROC is known as notice of charge.	When company repays a loan and relieves the security against which loan was raised then company is required to notify the ROC. Such intimation to ROC is known as notice of satisfaction of charge.
<b>Form for notice</b>	For registration of charge, the particulars of the charge together with a copy of the instrument, if any, creating or modifying the charge in <b>Form No. CHG.1</b> (for other than debentures) or <b>Form No. CHG. 9</b> (for debentures including rectification), duly signed by the company and the charge-holder shall be filed with the ROC within a period of <b>30 days</b> of the	The company shall give intimation to the Registrar of the payment or satisfaction in full of any charge within a period of <b>30 days</b> from the date of such payment or satisfaction in <b>Form No. CHG. 4</b> along with the fee.

	date of creation or modification of charge along with the prescribed fee.	
<b>Certificate of registration</b>	Where a charge is registered with the Registrar, he shall issue a certificate of registration of such charge in <b>Form No. CHG. 2</b> . Where the particulars of modification of charge is registered, the Registrar shall issue a certificate of modification of charge in <b>Form No. CHG. 3</b> .	Where the Registrar enters a memorandum of satisfaction of, he shall issue a certificate of registration of satisfaction of charge in <b>Form No. CHG. 5</b> .

<b>Points</b>	<b>Calls-in-Advance</b>	<b>Calls-in-Arrear</b>
<b>Meaning</b>	A company may receive from a shareholder the amount remaining unpaid on shares. This is known as calls-in-advance.	When calls are made upon shares allotted, the shareholders holding the shares are bound to pay the call money within the date fixed for such payment. If a shareholder makes a default in sending the call money within the appointed date, the amount thus failed is called calls-in-arrear.
<b>Interest</b>	<b>Regulation 18 of Table F of the Companies Act, 2013</b> provides that the Board may receive from any member calls in advance and may pay interest at such rate not exceeding 12% p.a. The Company is liable to pay interest on the amount of calls-in-advance from the date of receipt of the amount till the date when the call is due for payment.	<b>Regulation 16 of Table F of the Companies Act, 2013</b> provides that, if a call is not paid before or on the day appointed for payment, the shareholder shall pay interest from the day appointed for payment to the time of actual payment at <b>10% p.a.</b> or at such lower rate, as the Board may determine.
<b>Nature</b>	Interest on calls-in-advance is expenses and debited to profit & loss account.	Interest on calls-in-arrear is income and credited to profit & loss account.

<b>Points</b>	<b>Forfeiture of Shares</b>	<b>Surrender of Shares</b>
<b>Meaning</b>	Forfeiture of shares means taking back of shares by the company from the shareholders for default in payment of calls on shares.	Surrender of shares means giving back shares to the company by the shareholder.
<b>Initiative</b>	In case of forfeiture, the company takes the initiative.	In case of surrender of shares initiative is taken by shareholder.
<b>Reason</b>	Shares can be forfeiture for default in payment of calls-in-arrear.	Shares can be surrendered for other reason also e.g. for exchange into new shares.
<b>Object</b>	The object of forfeiture is to penalize a member for non-payment of call.	The object of surrender of shares is to hand over the shares due non-payment of call or other reasons.
<b>Proper notice</b>	Before the shares of a member are forfeited, a proper notice to that effect must have been served. Regulation 29 of Table F provides that a notice shall name a further 14 days from the date	No notice is required in case of surrender of shares.

	of service of the notice on or before which the payment is to be made. The notice must also mention that in the event of non-payment, the shares will be liable to be forfeited.	
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Points	Lien	Forfeiture
<b>Meaning</b>	Lien means to withhold the property of another for the lawful debts. A lien, like a mortgage or pledge, is a form of security. It is equitable charge on the shares to secure any debts due from member of the company.	If a shareholder fails to pay the allotment money or calls made on him his shares are liable to be forfeited. Forfeiture of shares may be said to be the compulsory termination of membership by way of penalty for non-payment of allotment and/or any call money.
<b>Nature</b>	Lien is a form of security for a debt.	Forfeiture is a penal proceeding.
<b>Reduction of capital</b>	Lien never involves a reduction of capital because the shares are sold if the member makes defaults in payments.	Forfeiture involves reduction of capital if forfeited shares are not reissued.
<b>Amount of sale proceeds of shares</b>	In case of lien, the shareholder is entitled to receive the excess amount than the amount due.	In case of forfeiture nothing is payable to shareholder.

Points	Shares in physical form	Shares in dematerialized form
<b>Nature</b>	Share certificates are issued in physical form.	No physical scrips are in existence. Only electronic record is maintained by depository.
<b>Account</b>	No necessity of opening accounts.	It is necessary to open a demat account.
<b>Time in transfer</b>	Transfer of shares takes longer time due to physical movement of documents.	Since there is electronic transfer, it takes effect immediately.
<b>Stamp duty</b>	To transfer shares in held in physical form, stamp duty has to be paid.	No stamp duty is payable for transferring the share in dematerialized form.
<b>Theft &amp; forgery</b>	There are chances of theft and forgery.	The chance of theft and forgery are remote.
<b>Bad delivery</b>	There are chances of bad delivery.	There are no chances of bad delivery.

Points	Ordinary Business	Special Business
<b>Meaning</b>	Following four business are ordinary business: (1) The consideration of the accounts, balance sheet and the reports of the board of directors and auditors (2) The declaration of dividend (3) The appointment of directors in the place of those retiring. (4) The appointment and fixing of remuneration of the auditors.	All business to be transacted at an AGM shall be deemed special business except which are ordinary businesses.

<b>Where transacted</b>	Ordinary businesses are transacted at AGM.	Special businesses can be transacted at AGM or EGM.
<b>Resolution</b>	Any matter to be dealt at AGM may be 'ordinary business' but it may require passing of 'special resolution'.	Any matter to be dealt at AGM or EGM may be 'Special business' but it may require passing of 'ordinary resolution'.

<b>Points</b>	<b>Special Resolution</b>	<b>Resolution requiring special notice</b>
<b>Meaning</b>	A special resolution is one passed at a general meeting of a company when: - Notice of the meeting specifying the intention to propose the resolution as a special resolution has been duly given and - The votes cast in favor are <b>3 times</b> of the vote cast against it.	According to <b>Section 115</b> , where by any provision of the Act or in the articles, special notice is required of any resolution, notice of the intention to move the resolution shall be given to the company not earlier than 3 months but at least 14 days before the date of the meeting.
<b>From No.</b>	Every special resolution is required to be filed in <b>Form No. MGT.14</b> to the ROC.	Every resolution requiring special notice is also required to be filed with ROC, but no Form has been prescribed.
<b>Dependence</b>	Every special resolution does not require special notice.	Resolutions requiring special notice may be passed as ordinary resolution.
<b>Examples</b>	Following are some of the transactions which requires special resolution: <ul style="list-style-type: none"> <li>▪ Alternation of the name of the company with the approval of the Central Government</li> <li>▪ Shifting of registered office from one city, town or village to another city, town or village within the same State.</li> <li>▪ Change of registered office from one State to another State</li> <li>▪ Change in object clause</li> </ul>	Following are some of the transactions which requires special notice: <ul style="list-style-type: none"> <li>▪ A resolution at an AGM appointing as auditor a person other than a retiring auditor, or providing expressly that a retiring auditor shall not be re-appointed.</li> <li>▪ A resolution to remove a director or to appoint somebody in place of a director so removed, at the meeting at which he is removed.</li> </ul>

<b>Points</b>	<b>Postponement of Meeting</b>	<b>Adjournment of Meeting</b>
<b>Meaning</b>	When it is decided by the directors to cancel the duly called meeting and to take it on some other day it is known as postponement of meeting.	When meeting is called and started but suspended to resume at later time on the same date or some another date it is known as adjournment of meeting.
<b>Effect</b>	Postponement means cancelling the meeting itself and hold fresh meeting on some other date.	Adjourned meeting mere continuance of original meeting.
<b>Power</b>	Directors who have issued notice of general meeting for a particular date have the power to postpone the date for valid, bona fide and proper reasons.	The chairman may, with the consent of any meeting at which a quorum is present and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place.
<b>Notice</b>	Fresh notice will be required in case meeting is postponed.	For an adjourned meeting fresh notice is not necessary, if time, date and place are decided and declared at the time of adjourning. The rules may provide for notice to be given for adjourned meeting if the interval exceeds a fixed time, e.g.,

		30 days. If the meeting is adjourned <b>sine die</b> , fresh notice of the adjourned meeting is necessary.
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Points	Appointment of director by nomination	Appointment of director against casual vacancy
<b>Meaning</b>	Appointment of director by nomination means appointing a director by a third parties like financial institutions or a bank which has provided financial assistance to the company.	Appointment of director against casual vacancy means appointing a director due vacancy caused by reason of death, resignation, disqualification or failure of an elected director to accept the office or for any reason other than retirement by rotation.
<b>Appointment</b>	In certain cases i.e. pursuant to loan agreement appointment of nominee director becomes necessary.	It is not obligatory for the company to fill a casual vacancy and the Board may resolve to keep vacancy unfilled.
<b>Provision in article</b>	Director nominated under statutory powers can be appointed even if there is no provision in Articles of the Company.	In the case of a public company, if the office of any director appointed by the company in general meeting is vacated before his term of officer expires in the normal course, the resulting casual vacancy may, in default of and subject to any regulations in the articles of the company, be filled by the board of directors at a meeting of the Board.
<b>Term of office</b>	Term of office of nominee director depends upon his appointment. For example, nominee director appointed by financial institution continues to be director until loan is fully repaid.	Any person appointed to fill the casual vacancy shall hold office only up to the date up to which the director in whose place he is appointed would have held office if it had not been vacated.

Points	Managing Director	Whole Time Director
<b>Meaning</b>	According to <b>Section 2 (54)</b> , Managing Director means a director who is entrusted with substantial powers of management.	According to <b>Section 2(94)</b> , Whole-time director includes a director in the whole-time employment of the company.
<b>No. of companies</b>	A person can be managing director in one, and of not more than one, other company, [Section 202(3)]	A person cannot be whole time director in more than one company.
<b>Appointment with Manager</b>	A managing director and manager cannot be appointed simultaneously.	A whole time director and manager can be appointed simultaneously.
Points	Red-herring Prospectus	Abridged prospectus
<b>Meaning</b>	If no information or explanation is furnished or it is inadequate, ROC may by written notice call on the company to produce for his inspection books of account, books papers and explanations as he may require at such place and at such time as he may specify in the notice. [Section 206(3)]	In following cases the Central Government <b>may</b> order an investigation into the affairs of the company if it is of the opinion that it is necessary to investigate into the affairs of a company – (a) On the receipt of a report of the Registrar or inspector u/s 208 (b) On intimation of a special resolution passed by a company that the affairs of

	If the Central Government is satisfied that the circumstances so warrant, it may direct inspection of books and papers of a company by an inspector appointed by it. [Section 206(5)]	the company ought to be investigated or (c) In public interest. [Section 210(1)] Where an order is passed by a Court or the Tribunal in any proceedings before it that the affairs of a company ought to be investigated, the Central Government <b>shall</b> order an investigation into the affairs of that company. [Section 210(2)]
<b>By whom</b>	Inspection may be carried out by ROC or the inspector authorized by the Central Government and in case of listed company SEBI is also authorized to inspect.	Investigation is always carried out by the inspector or authorized officer of Central Government.
<b>Nature</b>	Inspection is routine exercise.	The investigation means in-depth analysis of books of account, transaction, and event and always carried out with specific objectives.

<b>Points</b>	<b>Oppression</b>	<b>Mismanagement</b>
<b>Meaning</b>	The term 'Oppression' is not defined in the Companies Act, 2013. Oppression, according to the dictionary meaning of the word, is any act exercised in a manner burdensome, harsh and wrongful. Oppression means violation of condition of fair play. The complaining member must be under a burden which is unjust, harsh or tyrannical. It involves lack of probity or fair dealing to a member in the matter of rights as a shareholder.	The term 'Mismanagement' is also not defined in the Companies Act, 2013. Normally mismanagement means gross misconduct of affairs of the company or misuse of powers given to directors or members under the Companies Act, 2013.
<b>Examples</b>	Some of the acts held as oppressive are as follows: <ul style="list-style-type: none"> <li>▪ Continuous refusal to register shares to retain control over affairs of the company.</li> <li>▪ Illegal removal of director one group and appointing other director without notice to one group of directors.</li> <li>▪ Calling board meeting with 2 days notice so that NRI directors cannot attend and allotting shares to one group so that it comes into majority.</li> <li>▪ Issuing shares to wife of directors for wholly illusive consideration.</li> <li>▪ Attempt to deprive members of his ordinary membership rights e.g. denial of voting right or denial to contest election as director</li> </ul>	Some of the acts held as mismanagement are as follows: <ul style="list-style-type: none"> <li>▪ Not allowing director to function as director</li> <li>▪ Reckless sanction and disbursement of loans.</li> <li>▪ Serious violation of legal provisions</li> <li>▪ Acting beyond authority of memorandum and articles</li> <li>▪ Directors do not take serious actions in case of corruption, embezzlement etc.</li> <li>▪ Diversion of funds.</li> <li>▪ Operation of bank accounts by unauthorized persons.</li> </ul>

Points	Limited Liability Partnership	Producer Company
<b>Meaning</b>	Limited Liability partnership means a partnership formed and registered under Limited Liability Partnership Act, 2008.	A producer company means a body corporate, having objects or activities specified in Section 581B of the Companies Act, 1956 and registered as producer company.
<b>Governing Law</b>	Limited Liability partnerships are governed by the Limited Liability Partnership Act, 2008.	Producer companies are governed by the Companies Act, 1956.
<b>Internal rules &amp; regulation</b>	Internal rules and regulation of LLP's are governed by the LLP agreement.	Internal rules and regulation of the producer companies are governed by the MOA & AOA.
<b>Meetings</b>	In the LLP Act, there is no stipulation for meeting of partners either periodically or compulsory at the year end.	Every producer company must hold AGM every year. A meeting of the board shall be held not less than once in every 3 months and at least 4 board meetings shall be held in every year.
<b>Business</b>	In an LLP, each partner has the authority to do so unless expressly prohibited by the partnership terms.	In case of a producer company no individual director can conduct the business of the company.
<b>Remuneration</b>	There are no provisions in the LLP Act, 2008 regulating the remuneration payable to designated partners.	The Companies Act, 1956 regulates the remuneration payable to directors.
<b>Borrowing power</b>	There are no restrictions on the borrowing powers on the LLP.	There are restrictions on borrowings power on the producer companies.
<b>Accounts</b>	The LLP can choose to maintain the accounts on cash basis/accrual basis.	Producer companies have to keep their accounts on accrual basis.
<b>Audit</b>	The audit of LLP is not compulsory if the capital contributed does not exceed ₹ 25 lakh or if the turnover does not exceed ₹ 40 lakh.	Audit of a producer company is compulsory.
<b>Company Secretary</b>	The appointment of Company Secretaries is not provided in the LLP Act, 2008.	Every producer company having an average annual turnover exceeding ₹ 5 Crore in each of 3 consecutive financial years shall have a whole-time secretary.

MOA	AOA
Fundamental Document (charter)	Subordinate Document (internal)
Memorandum prevails over Articles	Articles cannot override Memorandum
Memorandum cannot be amended retrospectively	Articles can be amended retrospectively
Every company must have its own memorandum	A public company limited by shares may adopt Table A and in such a case it need not have its own articles.
Memorandum has 6 clauses	The Act has not prescribed any contents of articles.
Alteration is difficult and length procedures with lots of approvals	Alteration is relatively easy and do not require much approvals.
Any act done beyond Memorandum is Ultra Vires i.e Void	Any act done beyond Articles can be ratified retrospectively by amending articles.



<b>DEBENTURE</b>	<b>SHARES</b>
Debenture holders are the creditors of the company	Shareholders are the owners of the company
Debenture holders have no voting right	Shareholders have voting rights and hence control the total affairs of the company
Debenture interest is paid at a predetermined fixed rate. It is payable whether there is any profit or not.	Dividend on shares is payable at a variable rate which is mainly affected by the profitability of the company.
Interest on debentures is a charge on the profits of the company and hence deductible as an expense under income tax	Dividends is the appropriation of the profits of the company hence are not deductible as an expense under income tax
In balance sheet, debentures are shown under secured loans	In balance sheet, shares are shown under share capital
Debenture can be converted into shares as per the terms of issue.	Shares cannot be converted into debentures under any circumstances
Debentures cannot be forfeited for non payment of calls money	Shares can be forfeited for non payment of allotment and call money
At the time of liquidation, debenture holders are paid off before the shareholders	At the time of liquidation, shareholders are paid at the last after debenture holders, creditors, etc
Debenture can be issued at a discount, no such restriction in companies act, 2013	Shares cannot be issued at a discount as per companies act, 2013
Maximum Underwriting commission on Debentures can be 2.5% of Issue price as per companies Act, 2013 or As authorised by Articles whichever is less.	Maximum Underwriting commission on Shares can be 5% of Issue price as per Companies Act, 2013 or As authorised by Articles whichever is less.

<b>TRANSFER OF SHARES</b>	<b>TRANSMISSION OF SHARES</b>
<ul style="list-style-type: none"> <li>• Transfer takes place by a voluntary act of the transferor.</li> </ul>	<ul style="list-style-type: none"> <li>• Transmission is the result of the operation of law i. e. death or insolvency.</li> </ul>
<ul style="list-style-type: none"> <li>• Transfer deed is required.</li> </ul>	<ul style="list-style-type: none"> <li>• No instrument of transfer is required.</li> </ul>
<ul style="list-style-type: none"> <li>• Transfer is a normal course of transferring property.</li> </ul>	<ul style="list-style-type: none"> <li>• Transmission takes place on death or insolvency of a shareholder.</li> </ul>
<ul style="list-style-type: none"> <li>• Generally made for some consideration.</li> </ul>	<ul style="list-style-type: none"> <li>• No consideration payable.</li> </ul>
<ul style="list-style-type: none"> <li>• Stamp duty is payable by a member.</li> </ul>	<ul style="list-style-type: none"> <li>• No stamp duty is payable.</li> </ul>

<b>Basis</b>	<b>LLP</b>	<b>Partnership</b>
<b>Distinctive</b>	LLP is a separate legal entity and therefore, can be sued or it can sue others	A partnership firm is not distinct from the several persons who compose it.
<b>Liability</b>	Partners have Limited Liability	Partner of a firm would have unlimited liability.
<b>Dissolution</b>	The retirement or death of a partner	The death or retirement of a partner

	would not dissolve the LLP	would dissolve the partnership firm.
<b>Firm's Property</b>	Property belongs to the LLP and not to the individuals comprising it	The property of the firm is the property of the individuals comprising it.
<b>Legality</b>	LLP is formed by an incorporation document and an LLP agreement, thus, giving it a legality	A partnership can be formed either orally or by a deed of agreement whether registered or not.
<b>Max No. of Partners</b>	No upper limit has been laid down by the Act	A registered or unregistered partnership cannot have more than 50 partners.
<b>Perpetual Succession</b>	The death or insolvency of a shareholder or all of them does not effect the life of the LLP	The death or insolvency of a partner dissolves the firm, unless otherwise provided.
<b>Capacity</b>	A partner of LLP in his separate capacity as a legal person can do business with the LLP since the LLP is a separate legal entity by itself	An individual partner would not be able to conduct business transaction with the partnership firm of which he is a partner.

<b>BASIS</b>	<b>LLP</b>	<b>COMPANY</b>
<b>Incorporation Process</b>	Incorporation Process is reduced into a simple procedure of filling of the prescribed information in the Incorporation document and statement in Form No. 2.	As compared to LLP, Incorporation process is complex.
<b>Agreement</b>	In case of LLP, a limited liability partnership agreement (LLPA) is prepared.	In case of a Company, articles of association of a company are prepared.
<b>Memorandum</b>	The memorandum of a LLP is not required to name the state in which it is required to be incorporated.	The memorandum of a company is required to name the state in which it is required to be incorporated.
<b>Change in Registered office</b>	The detail procedure involved in changing the registered office from the state of incorporation to another state is not required to be followed in case of a LLP.	The detail procedure is required to be followed in case of a company.
<b>Meeting</b>	There is no such stipulation for meeting of partners.	Meeting of partners either periodically or compulsory as stipulated for directors and shareholders' meetings in the Companies Act.
<b>Management &amp; Ownership</b>	There is no separation between management of the company and the ownership since all the partners, unlike all the directors, can take part in the day to day affairs of the LLP.	There is a separation between management of the company and the ownership.
<b>Authority</b>	In an LLP, each partner has the authority to do so unless expressly prohibited by the partnership terms.	In case of a company no individual director can conduct the business of the company.
<b>Remuneration</b>	There are no provisions in the LLP Act for remuneration payable to designated partners.	The Companies Act contemplates regulating the remuneration payable to directors.
<b>Borrowing Powers</b>	Unlike in the case of companies, there are no restrictions on the borrowing powers.	There are restrictions on borrowing powers in case of a company.
<b>Maintenance of accounts</b>	The LLP can choose to maintain the accounts on cash basis/accrual basis.	Whereas under the Companies Act, accrual method is compulsory.
<b>Governing Law</b>	LLP Act, 2008	Companies Act, 2013

<b>Audit</b>	Every LLP is not required to get the Financial Statements Audited. Criteria is specified.	Every Company is required to mandatorily get their Financial Statements Audited.
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<b>BASIS</b>	<b>WINDING – UP</b>	<b>DISSOLUTION</b>
<b>Basic distinction</b>	Winding up is the 1 <sup>st</sup> stage in the process whereby assets are realized, liabilities are paid off and the surplus, if any, distributed among its members.	Dissolution is the final stage whereby the existence of the company is withdrawn by the law.
<b>Appointment of liquidator</b>	The liquidator appointed by the company or the Court carries out the winding up proceedings.	The order for dissolution can be passed by the Court only.
<b>Representation by the liquidator</b>	The liquidator can represent the company in the process of winding up. This can be done till the order of dissolution is passed by the Court.	Once the Court passes dissolution orders the liquidator can no longer represent the company.
<b>Debts to be proven by the creditors</b>	Creditors can prove their debts in the winding up of a Company.	Creditors cannot prove their claim on the dissolution of the company.

<b>BASIS</b>	<b>MEMBER'S WINDING – UP</b>	<b>CREDITOR'S WINDING – UP</b>
<b>Basic distinction</b>	A member's voluntary winding up results where, before convening the general meeting of the company at which the resolution of winding up is to be passed, the majority of the directors file with the Registrar a statutory declaration of solvency.	A creditor's voluntary winding up is one where no such declaration is filed.
<b>Participation in liquidation</b>	In a member's voluntary winding up, the creditors do not participate directly in the control of the liquidation, as the company is deemed to be solvent.	In a creditors' voluntary winding up, the company is deemed to be insolvent and, therefore, the control of liquidation remains in the hands of the creditors.
<b>Appointment of Liquidator</b>	There is no meeting of creditors in a members' voluntary winding up and the liquidator is appointed by the company.	In a creditors' voluntary winding up, meetings of creditors have to be called at the beginning and subsequently the liquidator is appointed by the creditors.
<b>Power of liquidator</b>	In a members' voluntary winding – up the liquidator can exercise some of his powers with the sanction of a special resolution of the company;	In a creditors' voluntary winding up, creditors can do so with the sanction of the Court.

<b>BASIS</b>	<b>PUBLIC COMPANY</b>	<b>PRIVATE COMPANY</b>
<b>Minimum number of members</b>	The minimum number of person required to form a public company is seven.	Minimum number of person required in a private company is only two.
<b>Maximum number of members</b>	There is no limit on the maximum number of member of a public company	Private company cannot have more than 200 members excluding past and present employees.
<b>Invitation to public</b>	A public company by issuing a prospectus may invite public to	A private company cannot extend such invitation to the public.

	subscribe to its shares	
<b>Transferability of shares</b>	There is no restriction on the transfer of share	A private company by its articles must restrict the right of members to transfer the share.
<b>Number of Directors</b>	A public company must have at least three directors.	A private company may have two directors.
<b>Managerial Remuneration</b>	Total managerial remuneration in the case of public company cannot exceed 11% of net profits.	These restrictions do not apply to a private company.
<b>Name Clause</b>	A public company has to use only the word 'Limited' at the end of its name.	A private company has to use words 'private limited' at the end of its name
<b>Independent Directors</b>	Public Company which fulfills the prescribed Criteria is required to appoint Independent Directors	Private Companies are not required to appoint Independent Directors

<b>Basis</b>	<b>Private Company</b>	<b>OPC</b>
<b>Section Number</b>	Section 2(68)	Section 2(62)
<b>Board of directors</b>	Minimum number of Directors required in a private company is 2.	Minimum Number of Directors required to form an OPC is 1.
<b>Shareholding</b>	In a private company minimum number of members is two, so entire shareholding cannot held by single person.	The 100% of share capital of OPC is held by single person.
<b>NRI or Foreign nationals</b>	Private company can be started & managed by NRI's foreign nationals.	Only Indian citizen or Indian national are allowed to start OPC.
<b>Compulsory Conversion</b>	No such limitation or compulsion of conversion.	OPC must be mandatorily converted into private Company: <ul style="list-style-type: none"> <li>• If Average Annual Turnover exceeds ₹ 2 Crores; <b>or</b></li> <li>• Paid up capital exceeds ₹ 50 Lakhs.</li> </ul>
<b>Cash Flow Statement</b>	Financial Statements of Private Company includes Cash Flow Statement	Financial Statements of OPC does not include Cash Flow Statement
<b>AGM</b>	Every Private Company must hold 1 AGM every year.	OPC need not hold an AGM.
<b>Maximum Members</b>	Private company can have maximum 200 members	OPC can have maximum 1 member.
<b>Nominee</b>	No need to declare a Nominee	OPC can be formed only after appointing a Nominee and after taking written consent from him.
<b>Name</b>	Name of a Private Company must end with the words "Private Limited"	Name of OPC must be written below the name in brackets.
<b>Restrictions</b>	There is no restriction on the activities that can be carried on by a private company	OPC cannot conduct Non-Banking Financial Investment Activities including investment in shares of other Body Corporate.
<b>Membership Restriction</b>	Natural or Artificial, both can become member of a private company	Only Natural person can become member of OPC.

	<b>PRIVATE COMPANY</b>	<b>PRODUCER COMPANY</b>
<b>Number of persons required for Incorporation</b>	The private company can be formed by two members.	Producer company can be formed by minimum 10 members.
<b>Name</b>	A private company has to use words 'private limited' at the end of its name	A producer company has to use words "Producer Company Limited" at the end of its name.
<b>Minimum number of directors</b>	Minimum number of Directors required in a private company is only two.	Minimum number of Directors required in a producer company is Five.
<b>Tenure of directors</b>	The tenure of directors is not fixed by law. Minimum 1 Year.	The tenure of directors is minimum period of 1 year & maximum 5 years.
<b>1<sup>st</sup> AGM</b>	The first AGM is required to be held within 9 months from end of 1 <sup>st</sup> FY.	The first AGM is required to be held within 90 days from the date of incorporation.
<b>Notice of the meeting</b>	Notice of the meeting should be given not less than 21 days from the date of meeting.	Notice of the meeting should be given not less than 14 days from the date of meeting.
<b>Share Capital</b>	The share capital of private company may be consists of equity, preference or any "other class".	The share capital of producer company consists of equity shares only.
<b>Membership</b>	Any person can become a member of Private Company	Only Producers i.e Farmers can become member of Producer Company

<b>BOARD MEETING</b>	<b>GENERAL MEETING</b>
Notice Must be sent at least 7 days before the date of meeting	Notice Must be sent at least 21 days before the date of meeting
Quorum is 1/3 <sup>rd</sup> Directors or 2 whichever is higher	It depends on the number of members of the company. Public Company: Members <=1000 then 5 Members >1000<=5000 then 15 Members > 5000 then 30  and Private Company: 2.
Board Meeting is for Directors for day to day decision	General Meeting is for members of company to undertake ordinary business
Minimum 4 Board Meetings in a years should be held every year	AGM: 1 EGM: no such Limit on number of meetings
1 <sup>st</sup> Board meeting should be held within 30 days of incorporation	1 <sup>st</sup> AGM shall be held within 9 months of end of 1 <sup>st</sup> FY
Gap between two board meeting should not be more than 120 days	Gap between two board meeting should not be more than 15 months
Board meetings can be attended by director through video conferencing	Members cannot attend general meetings through video conferencing
Directors cannot appoint Proxy in Board Meetings	Members can appoint Proxy in General Meetings

<b>EXECUTIVE DIRECTOR</b>	<b>INDEPENDENT DIRECTOR</b>
This is an employee of company	This is not an employee of company
ESOPs can be granted to such director	ESOPs cannot be granted to such director
They are liable to retire by rotation	They are not liable to retire by rotation
They are appointed for one year and can be reappointed	They can be appointed for 5 years at a time and can serve 2 consecutive terms.
They cannot become chairman of various committees of board	Chairman of committees of board has to be independent director
They can have monetary relationship with the company	They cannot have any monetary relationship with the company
No Need to hold a separate meeting of executive directors only	At least one meeting must be held of Independent directors only
No minimum number of executive directors required to be appointed	Listed: 1/3 <sup>rd</sup> of total director must be independent directors Unlisted: at least 2 directors should be independent directors
Every Company is required to appoint executive directors.	Only companies fulfilling certain parameters are required to appoint independent directors. Every Listed, Unlisted Public Company SLT 10,50,100

<b>BASIS</b>	<b>COMPANY</b>	<b>PARTNERSHIP</b>
<b>Registration</b>	A company cannot come into existence unless it is registered.	In a partnership firm registration is not compulsory.
<b>Minimum no of members</b>	The minimum number in a public company is seven and in case of a private companies two.	Partnership the minimum number of partners is two.
<b>Maximum no of members</b>	The maximum limit of members in case of a private company is 200 but in case of public company there is no maximum limit.	The maximum limit of partners can be 50.
<b>Liability</b>	Limited to unpaid call on shares.	In case of partnership the liability of partners is unlimited.
<b>Management</b>	The affairs of a company are managed by its directors. Its members have no right to take part in the day to day management	Every partner of a firm has a right to participate in the management of the business unless the partnership deed provides otherwise.
<b>Legal Status</b>	A company has a separate legal status distinct from its shareholders.	A partnership firm has no legal existence distinct from its partners.
<b>Insolvency/ Death</b>	Insolvency or death of a shareholder does not affect the existence of a company.	A partnership ceases to exist if any partner retires, dies or is declared insolvent.

<b>BASIS</b>	<b>HUF</b>	<b>COMPANY</b>
<b>Registration</b>	Not compulsory under any law	Compulsory under Company Laws
<b>Membership</b>	By virtue of birth	By virtue of contract

<b>Authority to create debt</b>	Retains with Karta only	Company itself has authority to create debt through its Directors subject to the provisions if MOA & AOA.
<b>Management</b>	Management lies in the hands of Karta	Management lies in the hands of Board of Directors
<b>Liability</b>	Karta's Liability is unlimited	Members liability is limited to the extent of unpaid amount on shares
<b>Governing Law</b>	HUF is governed by Hindu Law	Company is governed by Companies Act, 2013

<b>BASIS</b>	<b>EQUITY SHARES</b>	<b>PREFERENCE SHARES</b>
<b>Meaning</b>	Equity shares are the ordinary shares of the company representing the part ownership of the shareholder in the company.	Preference shares are the shares that carry preferential rights on the matters of payment of dividend and repayment of capital.
<b>Payment of dividend</b>	The dividend is paid after the payment of all liabilities.	Priority in payment of dividend over equity shareholders.
<b>Repayment of capital</b>	In the event of winding up of the company, equity shares are repaid at the end.	In the event of winding up of the company, preference shares are repaid before equity shares.
<b>Rate of dividend</b>	Fluctuating. Depends upon distributable profits	Fixed Rate of dividend
<b>Redemption</b>	Equity Shares are always irredeemable. They are payable only at the time of liquidation	Preference shares are always redeemable. Maximum tenor cannot exceed 20 years.
<b>Voting rights</b>	Equity shares carry voting rights.	Normally, preference shares do not carry voting rights. However, in special circumstances, they get voting rights.
<b>Convertibility</b>	Equity shares can never be converted.	Preference shares can be converted into equity shares.
<b>Accumulation of dividend</b>	Dividend cannot be accumulated in any case	Dividend gets accumulated if not paid.

<b>AGM</b>	<b>EGM</b>
First AGM should be held within 9 months of end of 1 <sup>st</sup> FY	No such stipulation
AGM has to be held at least once in a year	No such stipulation
Ordinary business can be conducted in AGM only	Ordinary business cannot be conducted in EGM. Only special business can be conducted in EGM
Can be held on any day except National Holiday	Can be held on any day including National Holiday
Can be held during business hours only	Can be held at any time during the day
If AGM is not held, company and officer be liable to penalty of upto Rs. 1,00,000 and Rs. 5,000 per day	No such penalty prescribed under the law
AGM cannot be held on requisition by members	EGM can be held on requisition by members

<b>ESOP</b>	<b>SWEAT EQUITY SHARES</b>
ESOPs are given in the nature of Incentive and retention plan these can be issued to employees and officers. ESOPs cannot be issued to Promoter or person belonging to the promoter group.	Sweat Equity Shares are issued as consideration for creation or transfer of IPRs to the company or as other value addition these can be issued to employees, Officers and Directors of the Company.
These options can be issued with conversion right at a pre-determined price. The issue price can be less than the intrinsic value of the shares.	These shares can be issued at discounted price or free for know-how and services to the company.
The consideration has to be paid in cash.	The consideration can be partly cash and partly IPRs/value addition or fully non-cash consideration.
These are generally issued based on a scheme to be formulated by the company stipulating the eligibility criteria such as number of years of services, employee grade etc.	These are mainly intended to be issued to build up equity for directors or promoters with technical capability but with meager financial resources.
Lock-In period is not specified for the ESOP.	These Shares have compulsory Lock-In Period of 3 years.
No Pricing guidelines are defined.	Pricing Guidelines are defined for Sweat Equity Shares.
There is no separate register required to be maintained.	A separate register of Sweat Equity Share issued has to be maintained.
Sweat Equity shares cannot be issued by Unlisted Public Company more than 15% without the approval of Central Government.	There is no such restriction on ESOP.

<b>INTERIM DIVIDEND</b>	<b>FINAL DIVIDEND</b>
This dividend is paid before the finalization of accounts of the year	This dividend is paid after the finalisation of account of the year
This dividend is declared by Board of Directors	This dividend is recommended by BOD but approved by Shareholders in General meeting
Can be revoked with the consent of all the shareholders	Cannot be revoked in any circumstances
Not defined under companies act	Defined under companies act
Rate of interim dividend is always less than the rate of final dividend	Rate of final dividend is always higher than interim dividend

<b>POINTS</b>	<b>INFORMATIONAL SERVICES</b>	<b>APPROVAL SERVICES</b>
<b>Meanings</b>	Informational service cover those forms, which are to be filed with ROC for informational purposes, in compliance with the provisions of the Companies Act, 2013.	MCA, Regional Directors & ROCs are empowered to accord approval, or to give any direction in relation to the certain matters. Such services are known as approval services.
<b>Example</b>	Forms relating to following informational services are required to be filed: (a) Consent and withdrawal of consent of persons charged as officers in	ROC approval is required in following cases: (a) Extension of time period for holding AGM (b) Holding AGM at place other than



<p>default</p> <p>(b) Voluntary Reporting of Corporate Social Responsibility (CSR)</p> <p>(c) Resolutions and agreements</p> <p>(d) Notice of address of place where books of account are kept</p> <p>(e) Information in relation to any offer of scheme or contract involving the transfer of shares or any class of shares in the transferor company to the transferee company</p> <p>(f) Order received from Court or Tribunal</p>	<p>registered address</p> <p>(c) Declaring of company as defunct</p> <p>(d) Extension of the period of annual accounts</p> <p>(e) Amalgamation of companies</p> <p>(f) Compounding of offences</p>
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BASIS	MOTION	RESOLUTION
Meaning	Motion is a proposal submitted for a discussion and a decision adopted by means of a resolution. A motion becomes a resolution only after the requisite majority of members have adopted it.	A resolution is the formal expression of the decision of the meeting when a motion has been duly voted and passed by the requisite majority.
Official decision	Every motion is not the official decision of the company	A resolution once adopted and recorded in the minutes becomes the official decision of the company.
Significance in meeting	In case of company meetings, only such motions are proposed as are covered by the agenda. However, certain motions may arise out of the discussion and the standing orders of various bodies allow such motions to be discussed at the meeting without proper notice in writing.	A resolution relates to only such matters that are covered in notice of the meeting. No resolution can be passed in respect of matters which are not covered in notice of the meeting.

BASIS	RESERVE CAPITAL	CAPITAL RESERVE
Meaning	Reserve capital is that part of the uncalled capital of a company which the limited company has decided by <b>special resolution</b> not to call except in the event and for the purpose of the company being wound up.	Capital reserves are created out of capital profit. Capital reserve may be statutory capital reserve or non-statutory capital reserve.
Mandatory	Creation of reserve capital is not mandatory.	Creation of capital reserve is mandatory in certain cases.
Balance Sheet disclosure	There is no need to disclose reserve capital in balance sheet.	Capital reserves are disclosed in balance sheet under the head "Reserve & Surplus"
Writing off losses	Reserve capital cannot be used to write-off capital losses.	Capital reserve can be used to write off capital losses.

BASIS	MORTGAGE	CHARGE
Mode of creation	A mortgage is created by Acts of the parties	A charge may be created through Act of parties or by operation of Law
Registration	A Mortgage requires registration under	A charge by operation of Law does

	TOPA, 1882	not require registration but Charge created by act of parties requires registration
Term	A Mortgage is for a fixed term	A Charge may be in perpetuity
Effect	A Mortgage is a transfer of an interest in specific immovable property	A charge only gives a right to receive payment out of a particular property

**Cyber security Vs. Secured system under Companies (Management & Administration) Rules, 2014. (December 2018)**

“cyber security” means protecting information, equipment, devices, computer, computer resource, communication device and information stored therein from unauthorised access, use, disclosures, disruption, modification or destruction;

“secured system” means computer hardware, software, and procedure that

- (a) are reasonably secure from unauthorised access and misuse;
- (b) provide a reasonable level of reliability and correct operation;
- (c) are reasonably suited to performing the intended functions; and
- (d) adhere to generally accepted security procedures;

**Deemed prospectus Vs. Shelf prospectus. (December 2018)**

**Deemed Prospectus:**

If a company allots or agrees to allot any securities of the company with a view to all or any of those securities being offered for sale to the public, any document by which the offer for sale to the public is made shall, for all purposes, be deemed to be a prospectus.

In short, any document issued on behalf of the company for the purpose to sale securities to the public shall be treated as deemed prospectus.

Such a document shall be treated as a prospectus (unless the contrary is proved) where:

1. An offer of all or any of the securities for sale to the public was made within 6 months after the allotment or agreement to allot; or
2. At the date when the offer for sale to the public was made, the company had not received the whole consideration in respect of the said shares or debentures.

The following additional information is required to be given in the deemed prospectus:

1. The net amount of the consideration received or to be received by the company in respect of the shares or debentures to which the offer relates;
2. The place and time at which the contract under which the said shares or debentures have been or are to be allotted may be inspected.

**Shelf Prospectus:**

Shelf Prospectus means a prospectus in respect of which the securities or class of securities included therein are issued for subscription in one or more issues over a certain period without the issue of a further prospectus.

The shelf prospectus shall not be valid for more than 1 year from the date of opening of the first offer of securities under the shelf prospectus. Further, in respect of a second or subsequent offer issued during the period of validity of shelf prospectus, no further prospectus is required.

A company filing a shelf prospectus with the Registrar shall not be required to file prospectus afresh at every stage of offer of securities by it within the validity period of 1 year from the date of opening of the 1<sup>st</sup> issue of securities.

A company filing a shelf prospectus shall be required to file an information memorandum in respect of any change in material facts i. e. Creation of new charges, changes in the financial position occurred between the first offer of securities of the previous offer of securities and the succeeding offer, with the ROC prior to second or subsequent issue.

The information memorandum shall be prepared in Form PAS – 2 and filed with ROC along with the fee within 1 month prior to the second or subsequent issue under the shelf prospectus.

### **Unpaid Dividend Account Vs. Consequences of Non-Transfer of Dividend to unpaid dividend account. (December 2018)**

Section 124(1) states that when a dividend has been declared by a company but has not been paid or claimed within thirty days from the date of the declaration to any shareholder entitled to the payment of the dividend, the company shall, within seven days from the date of expiry of the said period of thirty days, transfer the total amount of dividend which remains unpaid or unclaimed to a special account to be opened by the company in that behalf in any scheduled bank to be called the Unpaid Dividend Account.

Section 124(3) provides that if any default is made in transferring the total amount referred to in sub-section (1) or any part thereof to the Unpaid Dividend Account of the company, it shall pay, from the date of such default, interest on so much of the amount as has not been transferred to the said account, at the rate of twelve per cent. per annum and the interest accruing on such amount shall ensure to the benefit of the members of the company in proportion to the amount remaining unpaid to them.

### **Appointment of Small Shareholders' Director Vs. Appointment of Independent Director. (December 2018)**

#### **Appointment of Small Shareholder's Director**

Every listed company may have one director elected by such small shareholders.

Here, "Small shareholder" means a shareholder holding shares of nominal value of not more than ₹ 20,000/- or such other sum as may be prescribed.

A listed company, may upon notice of not less than

- (a) One thousand small shareholders; or
- (b) one-tenth of the total number of such shareholders,

Whichever is lower; have a small shareholder's director elected by the small shareholder.

The small shareholders intending to propose a person as a candidate for the post of small shareholders' director shall give a signed notice to the company at least 14 days before the meeting. The notice shall be accompanied by a **statement** signed by the proposed director for the post of small shareholders' director stating

- (a) His Director Identification Number;
- (b) That he is not disqualified to become a director under the Act; and
- (c) His consent to act as a director of the company.

The director's tenure as small shareholders' director shall not exceed a period of 3 consecutive years and he shall not be liable to retire by rotation. Further, he shall not be eligible for reappointment after the expiry of his tenure.

#### **Appointment of Independent Director:**

The Companies Act, 2013 provides that every listed company to have at least 1/3 of the total number of directors as independent directors and further states that the Central Government may prescribe the minimum number of independent directors for a class of companies.

The Rule & prescribes at least two directors as independent directors for the following classes of public limited companies having:

- (a) Paid up share capital of ₹ 10 crore or more; or
- (b) Turnover of ₹ 100 crore or more; or
- (c) In aggregate, outstanding loans, debentures and deposits, exceeding ₹ 50 crore.

An independent director shall possess appropriate skills, experience and knowledge in one or more fields of finance, law, management, sales, marketing, administration, research, corporate governance, technical operations or other disciplines related to the company's business.

(a) Selection from Data Bank: Independent directors may be selected from a data bank of eligible and willing persons maintained by the agency (Anybody), institute or association as may be authorized by Central Government *like ICSI*).

(b) Approval from Shareholders: The appointment of independent directors has to be approved by members in a General meeting and the explanatory statement annexed to the notice must indicate justification for such appointment.

(c) Application for adding the name in the databank: Any person who desires to get his name included in the data bank of independent directors shall make an application to the agency in Form DIR – 1 Application for inclusion of name in the databank of Independent Directors which includes the personal, educational, professional, work experience, other Board details of the applicant.