

1. INTRODUCTION TO COMPANIES

INTRODUCTION:

- 1) *The Companies Act, 2013 is an Act to consolidate and amend the laws relating to companies.*
- 2) *The Companies Act, 2013 received the assent of the Honorable President of India on 29th August, 2013 and was notified in the Official Gazette on 30th August, 2013.*
- 3) *The Companies act was implemented in a phased manner*
Example: Section 1 came into force on 30th August, 2013; 98 sections came into force on 12th September, 2013; 143 sections were enforced from 1st April, 2014 and so on.
- 4) *The Companies Act, 2013 is rule based legislation with 470 sections and seven schedules. The entire Act has been divided into 29 chapters. Each chapter has at least one set of Rules.*
- 5) *The Companies Act, 2013 aims to improve corporate governance, simplify regulations and strengthen the interests of investors.*
- 6) *Thus, the enactment making our corporate regulations more contemporary.*

Q.No.1. What is a Company? Discuss the applicability of the provisions of Companies act, 2013. (Or) Define the term 'Company' as per Companies Act 2013 and also applicability of provisions of that Act. (C)

DEFINITION OF A COMPANY (SEC. 2(20)): "Company means a company incorporated under Companies Act, 2013 or any other previous Company law".

APPLICABILITY:

- 1) The Companies Act shall extend to the whole of India
- 2) The provisions of this Act shall apply to –
 - a) Companies incorporated under this Act or under any previous company law.
 - b) Insurance companies, except if the provisions are inconsistent with the Insurance Act, 1938 or the Insurance Regulatory And Development Authority Act (IRDA), 1999;
 - c) Banking companies, except if the provisions are inconsistent with the Banking Regulation Act, 1949;
 - d) Electricity companies, except if the provisions are inconsistent with the Electricity Act, 2003;
 - e) any other company governed by any special Act for the time being in force, except in so far as the said provisions are inconsistent with the provisions of such special Act, and
 - f) Such other body corporates as may be notified by the CG².

Example: *ITC Ltd. was incorporated on 24.08.1910 under the Indian Companies Act, 1882. Companies Act 2013 will even apply to Companies incorporated under earlier Companies Act and hence Companies Act 2013 will apply to ITC Ltd. also.*

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- 1) Previous Company Law means any of the Laws specified below –
 - i) Acts relating to companies in force before the Indian Companies act, 1866,
 - ii) The Indian Companies act, 1866,
 - iii) The Indian Companies act, 1882,
 - iv) The Indian Companies act, 1913,
 - v) The companies act, 1956
- 2) Food Corporation of India (FCI), National Highway Authority of India (NHAI), etc.

Q.No.2. Explain the term “Body Corporate” (Or) Corporation.

(C) (NEW SM)

BODY CORPORATE OR CORPORATION [SEC. 2(11)]: Includes a company incorporated outside India, but does not include –

- 1) A co-operative society registered under any law relating to co-operative societies, and
- 2) Any other body corporate (not being a company as defined in this Act), which the CG may, by notification, specify in this behalf.

BODY CORPORATE OR CORPORATION WILL HAVE THE FOLLOWING CHARACTERISTICS:

- 1) It is incorporated under some statute for the time being in force.
- 2) It has a perpetual succession.
- 3) It has a common seal.
- 4) It has a separate legal entity.
- 5) It has the capacity to sue and own property in its own name, and similarly it can be sued in its own name.

NOTE:

- a) *Thus, the term Body Corporate is wider than the term 'Company'. Every incorporated company is a Body corporate. But, every Body corporate need not be a company, because there are many Body corporates that are not incorporated as companies, E.g. DIC of India.*
- b) *Society formed and registered under Societies Registration Act, 1860 is not a “Body Corporate”, even though some of the features of a society are similar to that of a company.*

THE END

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