

COMPANY LAW – EXAM QUICK NOTES (All Topics Covered)

SHORT NOTES (5 Marks Each – One-Line & Table Format)

Topic	Key Points
Doctrine of Ultra Vires	"Beyond powers" – acts outside MOA are void; cannot be ratified; directors personally liable
Doctrine of Indoor Management	Outsiders can assume internal rules followed (<i>Turquand's Rule</i>); exceptions: knowledge, suspicion, forgery
Doctrine of Constructive Notice	Outsiders deemed to know MOA/AOA (public documents); protects company
Rule in Foss v. Harbottle	Only company can sue for wrongs to company; majority rule; exceptions: fraud, ultra vires, illegal acts
Corporate Veil	Separate legal identity; lifted for fraud, tax evasion, public interest
Calls on Shares	Demand for unpaid amount on shares; interest/failure → forfeiture

Allotment of Shares	Acceptance of share application; creates binding contract; irregular allotment = voidable
Shares at Premium	Issued > face value; premium to Securities Premium Account
Shares at Discount	Generally prohibited (except sweat equity); requires special approval
Bonus Shares	Free shares from profits/reserves to existing shareholders; capitalizes reserves
Forfeiture & Surrender	Forfeiture = company cancels for non-payment; Surrender = shareholder voluntarily returns
Kinds of Share Capital	Authorized → Issued → Subscribed → Called-up → Paid-up → Reserve Capital
Reduction of Capital	Decrease share capital; requires special resolution + NCLT approval; protects creditors
Debentures	Debt instruments; fixed interest; creditors not owners; secured/unsecured, convertible/non-convertible

Fixed & Floating Charge	Fixed = specific asset; Floating = changing assets (stock); crystallizes on default
Public Company	Min 7 members; free transfer; can invite public; no max limit
Private Company	Min 2, max 200 members; restricts transfer; cannot invite public
One Person Company (OPC)	Single member; limited liability; for small entrepreneurs
Holding & Subsidiary	Holding controls subsidiary (>50% shares or board control)
Director	Manages company; agent & trustee; owes fiduciary duty
Independent Director	No personal interest; unbiased oversight; for listed companies
Key Managerial Personnel (KMP)	CEO/MD, CS, CFO; handles daily operations & compliance
Quorum	Minimum members required for valid meeting (AGM public company = 5 members)
Kinds of Resolutions	Ordinary (simple majority); Special (75% majority)

Kinds of Meetings	AGM, EGM, Board Meetings, Class Meetings
NCLT	Tribunal for company disputes, mergers, winding up (replaces CLB/Company Court)
Contributories	Persons liable to contribute during winding up (present & past shareholders)
Liquidator	Appointed to wind up; collects assets → pays debts → distributes surplus
Auditor	Independent financial checker; ensures true & fair view; rights & duties under CA 2013
Prospectus	Document inviting public for securities; must contain true statements; liability for misrepresentation
Promoter	Person who conceives & forms company; fiduciary duties; liable for secret profits

LONG ANSWERS (15-20 Marks Each)

1. Define Company – Features & Kinds (S.2(20))

Definition: A company is an artificial legal person created by law, with separate legal identity, perpetual succession, common seal, and limited liability.

Features (7 points):

1. Separate Legal Entity (*Salomon v. Salomon*)
2. Artificial Legal Person
3. Perpetual Succession
4. Limited Liability
5. Transferable Shares
6. Separate Property
7. Capacity to Sue & Be Sued

Kinds of Companies:

Basis	Types
Liability	Limited by shares, Limited by guarantee, Unlimited
Members	Public (min 7), Private (min 2, max 200), One Person Company
Control	Holding, Subsidiary, Associate
Ownership	Government, Foreign

2. Incorporation Procedure (CA 2013)

7 Steps:

1. Promotion Stage – Idea, feasibility
2. Name Approval – SPICe+ form to ROC (no identical/offensive name)
3. Document Preparation – MOA, AOA, Declaration (professional), Director details, Address proof
4. Filing – Online MCA portal
5. Fee Payment – Registration fees + stamp duty
6. Certificate of Incorporation – Conclusive evidence
7. CIN Allotment + Commencement of Business (for public companies)

Effects: Separate legal entity, limited liability, can contract & sue.

3. Memorandum of Association (MOA) – Clauses (S.4)

Definition: Charter/document defining company's constitution, scope, & relation with outside world.

6 Clauses:

Clause	Content
Name Clause	Name ends with "Limited"/"Private Limited"
Registered Office Clause	State of registered office (jurisdiction)
Object Clause	Main + Incidental objects (most important)
Liability Clause	Limited/Unlimited liability
Capital Clause	Authorized share capital
Subscription Clause	Subscribers' names, shares, consent

Importance: Defines company's powers; any act beyond MOA = ultra vires (void).

4. Articles of Association (AOA) – Alteration & Limitations (S.5)

Definition: Rules for internal management (meetings, directors, shares, dividends).

Alteration (S.14):

- By Special Resolution (75% majority)

- File with ROC within 15 days
- Must not conflict with MOA or Companies Act

Limitations on Alteration:

1. Cannot violate Companies Act
2. Cannot conflict with MOA
3. Must be in good faith (for company benefit)
4. Cannot affect vested rights unfairly
5. Cannot be illegal or against public policy

5. MOA vs AOA (Distinction)

Point	MOA	AOA
Status	Supreme, dominant	Subordinate to MOA
Scope	External relations (outsiders)	Internal management
Alteration	Difficult (requires Central Govt approval for object clause)	Easier (special resolution)
Ultra vires	Any act beyond MOA = void	Act beyond AOA but within MOA = binding if outsider acted in good faith
Legal effect	Defines company's existence	Regulates functioning

6. Separate Legal Entity – Concept & Case Laws

Meaning: Company = distinct legal person from its members.

Case Laws:

Case	Principle
<i>Salomon v. Salomon (1897)</i>	Company separate from shareholder – even if one person controls it
<i>Lee v. Lee's Air Farming</i>	Shareholder can also be employee (separate identity)
<i>Macaura v. Northern Assurance</i>	Shareholder can't insure company property in own name

Consequences: Company owns property, contracts, sues, is sued; members not liable for company debts.

7. Corporate Veil & Lifting of Veil

Definition: Corporate veil = legal separation between company & members.

Circumstances to Lift Veil (pierce the corporate veil):

Ground	Case
Fraud	<i>Gilford Motor v. Horne</i>
Tax evasion	<i>Sir Dinshaw Maneckjee Petit</i>
Enemy character	<i>Daimler v. Continental Tyre</i>
Agency relationship	<i>Smith, Stone & Knight v. Birmingham</i>

Avoidance of legal obligation

Jones v. Lipman

Public interest

Lifting by NCLT/Courts

Group enterprises (exceptional)

Effect: Members held personally liable.

8. Doctrine of Ultra Vires – Case Laws & Consequences

Meaning: Act beyond MOA = ultra vires = void ab initio.

Case Law: *Ashbury Railway Carriage v. Riche* (contract beyond objects – void)

Consequences:

1. Act is void (cannot be ratified even by all shareholders)
2. Directors personally liable for ultra vires losses
3. Injunction by shareholders
4. Property acquired under ultra vires act can be protected only if bona fide

Exceptions: Acts incidental to main object are valid.

9. Doctrine of Indoor Management – Exceptions

Rule (*Royal British Bank v. Turquand*): Outsiders need not check internal company compliance.

Exceptions (where doctrine DOES NOT apply):

1. Knowledge of irregularity – Outsider knew about the breach
2. Suspicion of irregularity – Circumstances create doubt (must inquire)
3. Forgery – Where officer's signature is forged
4. Act outside apparent authority – Officer acts beyond normal powers

10. Doctrine of Constructive Notice – Exceptions

Rule: Persons dealing with company are deemed to know MOA/AOA (public documents).

Effect: Cannot claim ignorance of company's powers.

Exceptions (balancing doctrine = Indoor Management):

1. Indoor Management Rule – Protected from internal irregularities
2. No suspicion + Good faith – Outsider acted honestly

11. Rule in Foss v. Harbottle – Exceptions

Rule: Company is proper plaintiff for wrongs to company; court won't interfere in internal management.

Exceptions (minority shareholder can sue):

Exception	Explanation
Ultra vires acts	Act beyond company's powers
Fraud on minority	Majority misusing power against minority
Personal rights violation	Shareholder's individual right infringed
Illegal acts	Act prohibited by law
Special resolution requires special majority	Where 75% not obtained

12. Shares – Definition & Types

Definition (S.2(84)): Share = unit of share capital; movable property.

Types of Shares:

Category	Types
Equity Shares	With voting rights; With differential rights (DVR)
Preference Shares	Cumulative/Non-cumulative; Participating/Non-participating; Convertible/Non-convertible; Redeemable/Irredeemable

13. Share Capital – Kinds & Alteration

Kinds of Share Capital:

Kind	Meaning
Authorized/Nominal	Max capital MOA allows
Issued	Offered to public
Subscribed	Accepted by applicants
Called-up	Demanded by company
Paid-up	Actually received

Reserve Capital

Called only during winding up

Alteration of Capital (S.61): Increase, consolidate, subdivide, cancel unissued – by ordinary resolution.

Reduction of Capital (S.66): Special resolution + NCLT approval.

14. Allotment of Shares – Irregular Allotment

Meaning: Acceptance of application → binds company & applicant.

Essentials of valid allotment:

1. Proper authority (Board/AGM)
2. Within reasonable time
3. Communication to applicant
4. Minimum subscription received (for public issue)
5. Prospectus filed (for public)

Irregular Allotment: Violation of legal requirements.

Effects: Voidable at applicant's option; directors personally liable for loss; refund application money.

15. Forfeiture of Shares

Meaning: Cancellation of shares for non-payment of calls.

Conditions: AOA must authorize; proper notice; reasonable time given.

Procedure:

1. Notice to shareholder (specifying payment + forfeiture warning)
2. Failure to pay
3. Board resolution for forfeiture

4. Shares revert to company

Effects: Membership terminates; shares can be reissued; shareholder loses all money paid.

16. Shares vs Debentures

Point	Shares	Debentures
Nature	Ownership	Debt
Status	Owners	Creditors
Return	Dividend (variable)	Interest (fixed)
Voting rights	Yes (except preference)	No
Repayment	Not redeemable (unless redeemable preference)	Redeemable
Priority on winding up	After debentures	First

17. Debentures – Kinds

Definition (S.2(30)): Instrument acknowledging debt.

Kinds:

Basis	Types
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Security	Secured (asset backed), Unsecured/naked
Convertibility	Convertible (to shares), Non-convertible
Registration	Registered (recorded), Bearer (transfer by delivery)
Redemption	Redeemable (repaid), Irredeemable/perpetual

18. Promoter – Duties & Liabilities

Definition: Person who conceives company, takes incorporation steps.

Duties (fiduciary):

1. No secret profits – disclose fully
2. Disclose interest in contracts with company
3. Act in good faith
4. Account for company property received

Liabilities:

Liability Type	Nature
Civil – Breach of fiduciary duty	Rescission, damages, accounting
Civil – Misstatement in prospectus (S.35,36)	Damages to subscribers
Criminal (S.34,36)	Imprisonment up to 10 years + fine

19. Prospectus – Contents & Remedies (S.2(70), 26)

Definition: Document inviting public for securities.

Contents (S.26): General info, capital structure, management, litigation, financial statements, risk factors, statutory disclosures.

Remedies for Misrepresentation:

Remedy	Against	Nature
Rescission	Company	Cancel allotment + refund
Damages for deceit	Promoters/Directors	Civil suit
Compensation (S.35)	Directors, promoters, experts	Statutory liability
Criminal prosecution (S.34,36)	Responsible persons	10 years imprisonment + fine

Defence: Reasonable belief that statement was true.

20. Members – Shareholder (Distinction) & Termination

Member (S.2(55)): Subscriber to MOA + name in Register of Members.

Member vs Shareholder: Terms used interchangeably; no practical difference.

Termination of Membership:

- Transfer
- Death (transmission to heirs)
- Insolvency
- Forfeiture
- Buyback
- Resignation

- Winding up

21. Kinds of Meetings & Procedure

Kinds of Meetings:

Type	Who	Frequency
Statutory Meeting	Public company shareholders	Once (1-6 months from commencement)
AGM	Shareholders	Every year (max gap 15 months)
EGM	Shareholders	As needed (urgent)
Board Meeting	Directors	Min 4/year (gap ≤120 days)
Class Meeting	Class shareholders	As needed

Procedure (AGM):

1. Notice (21 clear days)
 2. Quorum (public company AGM = 5 members personally present)
 3. Chairman elected
 4. Business conducted
 5. Resolution passed (Ordinary = 50%+/Special = 75%+)
 6. Minutes signed
 7. Special resolution filed with ROC
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22. Dividend – Legal Provisions (S.123-127)

Definition: Profits distributed to shareholders.

Legal Provisions:

- Declared only out of profits (current/past) after depreciation
- Preference dividend paid before equity dividend
- Payment within 30 days of declaration
- Unpaid/unclaimed dividend → Unpaid Dividend Account (within 7 days) → IEPF after 7 years
- Penalty for default: 2 years imprisonment + fine

Prohibited:

- Dividend out of capital
- If previous unpaid dividend not transferred to IEPF

23. Winding Up – Modes & Grounds (S.270)

Definition: Legal process ending company's life.

Modes:

Mode	Description
By Tribunal (Compulsory)	NCLT orders winding up
Voluntary – Members'	Company solvent (declaration of solvency)
Voluntary – Creditors'	Company insolvent

Grounds for Winding Up by Tribunal (S.271):

- Unable to pay debts (₹1 lakh+ demand not paid in 21 days)
- Special resolution
- Act against sovereignty/integrity
- Fraudulent purpose

- Just & equitable
 - Default in filing for 5 years
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24. Compulsory Winding Up – Effects

Effects:

Area	Effect
Company	Exists only for winding up; business ceases
Employees	Auto discharge
Creditors	Cannot sue without Tribunal permission
Members	Transfer only with liquidator's consent
Legal proceedings	Stayed (new requires permission)
Property	Vests in liquidator
Directors	Powers cease

Commencement: Date of petition presentation.

25. Liquidator – Powers & Duties (S.309-310)

Definition (S.2(44)): Person appointed to wind up company.

Powers:

- Institute/defend suits
- Sell assets
- Borrow money (with approval)
- Compromise with creditors

Duties:

- Take custody of property/records
 - Prepare inventory
 - Realize assets
 - Pay debts in priority order
 - Distribute surplus to members
 - Report fraud
 - Apply for dissolution
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26. Auditor – Rights, Duties & Liabilities

Definition: Independent person examining company accounts.

Rights:

- Access to books/records
- Attend meetings
- Receive notices

Duties:

- Report true & fair view
- Report fraud (S.143(12))
- Comply with auditing standards

Liabilities:

- Civil: damages for negligence
 - Criminal: fine/imprisonment for false statements
 - Professional: removal/disqualification
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27. Director – Position, Powers & Duties

Definition: Person managing company affairs.

Position: Agent, trustee, managing partner.

Powers (Board powers under S.179):

- Borrow money
- Make investments
- Sell assets
- Appoint KMPs

Duties (S.166): Good faith, due diligence, avoid conflict of interest, not delegate improperly.

Liabilities: Civil (compensation), Criminal (fine/imprisonment for violations).

28. Appointment & Removal of Directors

Appointment:

- First directors – named in MOA
- Subsequent – Board or AGM (ordinary resolution)

Removal (S.169):

- By ordinary resolution (after special notice 14 days)
 - Director has right to be heard
 - Cannot remove independent director except by special resolution + Central Govt approval
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29. Borrowing Powers of Directors

Source: AOA + S.179(3) (list of borrowing limits)

Limitations:

- Cannot exceed limit in AOA
- Board resolution required for exceeding limit
- Ultra vires borrowing = void (directors personally liable)

QUICK REVISION TABLE – IMPORTANT SECTIONS (Companies Act, 2013)

Section	Topic
2(20)	Company definition
2(55)	Member
2(70)	Prospectus
2(84)	Share
4	Memorandum (MOA)
5	Articles (AOA)
7	Incorporation
8	NPO company
14	Alteration of AOA
26	Contents of prospectus

34-36 Misrepresentation liability

43 Kinds of shares

54 Shares at discount (sweat equity)

56 Bonus shares

58 Transfer of shares

61 Alteration of capital

62 Further issue of shares

66 Reduction of capital

71 Debentures

73 Acceptance of deposits

88 Register of members

94 Annual return

96 AGM

100 EGM

101 Notice of meeting

103 Quorum

105	Proxy
114	Ordinary resolution
115	Special resolution
118	Minutes
123	Dividend declaration
127	Unpaid dividend
130	Re-opening of accounts
133	Accounting standards
136	Financial statements
139	Auditor appointment
143	Auditor duties
149	Number of directors
152	Appointment of directors
164	Disqualification
166	Director duties
169	Removal of director

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KMP

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Official Liquidator

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Voluntary liquidator

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Powers of Tribunal/CLB (NCLT)
