

Date : Marks : 30	<b>FYJC</b> <b>Subject : Secretarial Practice</b> <b>Ch. 4.</b>	Duration: 1 Hr. 15 Min. Set No. :
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**SOLUTION**

**Q.1. (A) Select the correct answer from the possible options given below and rewrite the statement: (03)**

1. For alteration in the articles ..... resolution is required.  
 (a) **Special**                      (b) Ordinary                      (c) Circular
2. No company under the companies Act can be registered without .....  
 (a) its Articles of Association  
 (b) **its Memorandum of Association**  
 (c) its Prospectus
3. The Domicile Clause of the Memorandum of Association mentions the ..... of the company.  
 (a) head office                      (b) **registered office**                      (c) place of business

**(B) Match the correct pairs: (05)**

	Group "A"		Group "B"
1.	Memorandum of Association	a)	By-laws of the company
2.	Articles of Association	b)	For filing purpose
3.	Statement in lieu of prospectus	c)	Address of the registered office
4.	Liability Clause prospectus	d)	Debenture holders
5.	Domicile Clause	e)	Nature of shareholders liability
		f)	Address of the creditors
		g)	Nature of creditors liability
		h)	Capital structures of the company
		i)	Aims and objects of the company
		j)	Invitation to public to subscribe for shares and debentures

**Ans: (1 - i), (2 - a), (3 - b), (4 - e), (5 - c)**

**(C) Write a word / term / phrase which can substitute each of the following statements: (02)**

1. An almost unalterable document of the joint stock company. **Memorandum of Association**
2. An invitation to public to subscribe for shares or debentures of company. **Prospectus**

**Q.2. Distinguish Between: (05)**

**1. Memorandum of Association and Articles of Association.**

Memorandum of Association	Articles of Association
It is a character of the company. It defines the aims and objects for which company is formed.	It is a document containing rules and regulations for the internal management of the company
It is primary and supreme document of company. It is life giving	It is secondary document. It is subordinate to Memorandum.

document.	
It defines the scope of activities of the company. It fixes the area of its operation.	It lays down rules for internal working of company.
It defines relation between the company and outsiders. E.g. sellers, buyers, debtors, creditors, etc.	It defines the relation between the company and members. It has nothing to do with outsiders.
Every company must prepare and file its own memorandum for the purpose of registration. It is compulsory for all types of companies.	Every company must prepare and file its own Articles but a public company can adopt Table A as its articles.
The process of alteration of memorandum is complicated. It is possible only if members agree and sanction of central government, court or company law board is obtained.	The process of alteration of articles is simple. It must be subject to provisions of Indian Companies Act and Memorandum.

**Q.3. State with reasons whether the following statements are True or False: (Any 1) (05)****1. A private company does not issue prospectus.**

Ans: This statement is **TRUE**.

**Reasons :**

- (1) A document inviting the public to invest in shares or debentures of a public company is called prospectus. It contains information about the company. It is supplied free of charge along with the application form to the investors. Wide publicity is given through press, brokers, stock exchange, etc. for attracting more public.
- (2) The provisions of Section 3 (i) (ii) of the Companies Act, 1956, prohibits a private company through its Memorandum of Association to issue a prospectus to invite the public to purchase its shares as well as its debentures.
- (3) Shares and debentures of a private company are generally allotted and sold to the family members, close relatives and friends. It does not invite the members of the public to subscribe to its shares and debentures. It collects its capital through private arrangements.
- (4) Because of the above mentioned reasons, a private company need not prepare and file a 'prospectus' or a 'statement in lieu of the prospectus' with the Registrar of the company.

**2. Any clause of memorandum can be altered easily.**

Ans: This statement is **FALSE**.

Any clause of memorandum cannot be altered easily.

**Reasons:**

- (1) A Memorandum of Association is the basic, fundamental and principal document of a company with which the company is registered. Once it is framed, it is very difficult to modify or alter it.
- (2) It contains the following clauses (a) the name clause (b) the domicile clause (c) the objects clause (d) the liability clause (i) the capital clause and (j) the association or subscription clause. None of these clauses can be altered or changed easily.
- (3) The procedure for an amendment or alteration of a Memorandum of Association is difficult and complicated. It requires a special or ordinary resolution. a sanction or

approval from the Central Government or the Company Law Board or the appropriate court of law.

- (4) If an alteration of a Memorandum of Association affects the interest of any class of investors, i.e. shareholders, debenture holders, creditors or general public, then the Central Government never approves of the alterations. Thus, an alteration of any clause of a Memorandum of Association is almost impracticable for one or the other reasons.

**Q.4. Long Answer :**

**(10)**

- 1. What is Prospectus? Explain its features. What are its contents?**

**Ans: A Webster Dictionary defines Prospectus as 'a preliminary printed statement that describes an enterprise (as a business) and is distributed to prospective buyers, investors and participants'.**

**According to Sec 2(36) of the Companies Act, 1956 'Prospectus means any prospectus, notice, circular, advertisement or other document inviting deposits from the public or inviting offers from the public for subscription or purchase of any shares in, or debentures of a Company'.**

**Prospectus is an official invitation to the public to subscribe to shares or debentures of a company. Such invitation may be in the form of notice, a circular, an advertisement etc. The only requirement is that the invitation must be made to public in writing. The prospectus must have following features :**

- (1) Prospectus must be in writing : An oral invitation to purchase shares or debentures of company is not a prospectus. Even an advertisement on a television or in film is not a prospectus. Prospectus always must be in writing.**
- (2) Invitation to public : If an invitation is made to friends or relatives of directors, to purchase shares, its is not prospectus. A document is a prospectus, if it is an invitation to the public to subscribe to the shares of a company.**
- (3) Subscription : The word subscription means taking shares for cash'. If a document offers shares in exchange of (old) shares, it is not prospectus.**
- (4) Sale of Shares or Debentures : The prospectus must invite offers from public for subscription of shares or debentures.**

**If brief, prospectus is an invitation sent to the public requesting it to subscribe to the securities of the company. It is issued by public limited companies only.**

**Legal requirements relating to issue of Prospectus:**

- (1) Prospectus is issued after formation of a company.**
- (2) Prospectus must be dated. The date is the date of publication of prospectus.**
- (3) Prospectus must be signed by proposed directors of company.**
- (4) A copy of prospectus must be filed with the Registrar.**
- (5) Prospectus must be accompanied by a blank application form.**
- (6) Prospectus must be issued to the public within 90 days from the date of filing it with Registrar of Companies.**

**Contents of Prospectus :**

- (1) Name of the Company.**
- (2) Address of registered office of the company.**
- (3) Capital Structure of the company.**
- (4) Classes of shares, their face value, amount payable on application and allotment.**
- (5) Name of stock exchange on which shares are listed.**
- (6) The main object of company and future prospectus of company.**
- (7) Nature of business of company.**
- (8) Future plan of company.**
- (9) Location of factory.**

- (10) Particulars of assets.
- (11) Information about - promoters, managing directors, manager, banker, broker, solicitor, underwriters, etc.
- (12) Interest of Directors.
- (13) Rights of Directors regarding allotment, etc.
- (14) Preliminary contracts.
- (15) Minimum subscription amount.
- (16) Procedure for application of shares,
- (17) Opening and closing dates of subscription list.
- (18) Date and signatures of all directors.

