

- **Memorandum of Association**

One of the essentials for the registration of a company is memorandum of association (sec 33) (now section 7 of companies act 2013)(refer page 10 and 11 of notes). It is the first step in the formation of a company. Its importance lies in the fact that it contains the fundamental clauses which have often been described as the conditions of the company's incorporation.

Memorandum of association is divided into 5 clauses:

- 1) Name clause
- 2) Registered office clause
- 3) Objects clause
- 4) Liability clause and
- 5) Capital clause

Name clause---

The first clause states the name of the proposed company. The name of a corporation is the symbol of its personal existence. The name should not be, in the opinion of the Central Government, undesirable. Generally it is so when it is identical with or too nearly resembles the name of another company. If the company is with "limited liability" the last word of the name should be "limited" and in case of a private company "private limited". The Central Govt. may permit a company to drop the word limited from its name, if

a) If the company is formed for the promotion of arts, commerce, religion, science, charity or any other useful object.

b) The company is to apply its income in promoting its objects and prohibits the payment of dividend to its members.

The name of a company must be painted outside of every place where the company carries on business and printed on every business document and official letter of the company. Misdescription entails personal liability (s147).(now section 12 of companies act 2013)

Registered office clause---

The second clause of the memorandum must specify the State in which the registered office of the company shall be situate (sec 146) (now setion 12 of companies act). Within 30 days of incorporation or commencement of business, whichever is earlier, the exact place where the registered office is to be located must be decided and sent to the Registrar for recording of the same.

Objects clause –

The third clause states the objects of the proposed company. The objects clause divided into two sub-clauses (sec 13) (now section 4 of companies act 2013):

a) Main objects clause: states the main objects to be pursued by the company and the objects incidental or ancillary to the main objects.

b) Other objects: states any other objects which are not included in the main objects clause.

The essence of this clause is that the investors must be informed of the objects of the company in which their money is going to be employed and the creditors must feel protected when they know the assets are being used for the authorized objects. Section 4 of companies act 2013---

Memorandum -- (1) The memorandum of a company shall state—

(a) the name of the company with the last word “Limited” in the case of a public limited company, or the last words “Private Limited” in the case of a private limited company: Provided that nothing in this clause shall apply to a company registered under section 8;

(b) the State in which the registered office of the company is to be situated;

(c) the objects for which the company is proposed to be incorporated and any matter considered necessary in furtherance thereof;

(d) the liability of members of the company, whether limited or unlimited, and also state,—

(i) in the case of a company limited by shares, that liability of its members is limited to the amount unpaid, if any, on the shares held by them;