Chapter - 2
Types of Companies

Private company [section 2(68)].

It means a company having minimum paid up capital of Rs.1 lakh or more as may be prescribed and its articles.

- Restricts the rights to transfer its shares.
- Limits the number of its member to 200 excluding present and past employees.
- Prohibits any invitation to the public to subscribe any securities.

Note:-

1. Joint holders of shares shall be counted as one member only.
2. Restrictions means " ban with certain conditions "
3. Prohibitions means " complete ban "

Question:-	Directors and their relatives	=	50
	Employees	=	30
	Ex-employees (share are allotted when they were employees)	=	20
	50 couples holding shares jointly	=	100
	Others	=	90
	Total	=	290

Answer:-	Directors and their relatives	=	50
	50 couples holding shares jointly	=	50
	Others	=	90
	Total	=	190

Members are less than 200, hence it is private company.

Public company [section 2(71)]:-

It means a company which is –

- Not a private company
- Having minimum paid up capital of Rs. 5 lakh or more as may be prescribed

Note :-

1. In reference to the above point, the subsidiary of a public company is always treated as public company.
2. But such subsidiary company can continue to be a private company in its articles.

Difference between Public company and Private company.

Basis	Public company	Private company
Minimum paid up capital	5,00,000	1,00,000
Minimum number of members	7	2
Maximum number of members	Unlimited	200
Transfer of	Freely transferable	Restricted

share		
Directors	3	2
Last word	Limited	Private limited
Prospectus	It can issue prospectus or statement in lieu of prospectus for the subscription of securities.	It cannot issue prospectus

Minimum share capital (section 3)

This provision applies to every company having share capital except :-

- A company licensed U/S 25.
- A company limited by guarantee having no share capital.

Guarantee company	Company having share capital
Its main objective is to promote art, science commerce and religion.	Its main objective is profit motive and business purpose
Its memorandum states that the liability of the member shall be limited to the amount guaranteed by the members.	Its memorandum states that the liability of the member shall be limited to the unpaid amount of share capital
A company limited by guarantee may or may not have share capital	Such a company must have share capital.
The liability of the member arises only in the event of winding up of the company.	The liability of the member arises when a valid call is made by the company i.e. during the life time of the company.
It is mandatory to have its own articles.	It is not mandatory

Holding company [Section 2(46)] – In relation to 1 or more companies, means a company of which such companies are subsidiaries companies.

Subsidiary company [Section 2(87)] – It means a company in which the Holding company

Controls the composition of Board of directors

Appointment → removal

Holds atleast 51% of the nominal value of the total share capital

when any company is a subsidiary co of the subsidiary co.

Explanation of 3rd arrow

A Ltd. Holding co → B. Ltd S. company → C Ltd. S. Company → D Ltd. S. company

Note :

1. Total share capital = Equity share capital + Preference share capital

Associate Company [Section 2(6)]

It means a company in which other company has a significant influence
-Excluding subsidiary co. having such influence
- Including Joint Venture co.

Note:

1. **Significant Influence** – It means control of at least 20% of total share capital or of business decisions under an agreement.

Non Profit Co / Licensed Co [Section 25]

CG may grant a license U/S 25.

"CONDITIONS"

Its main object is To promote commerce, Art, science, religion, Charity etc.

To apply its income in promoting these objective

prohibits the payment of dividend to its members

Effect of license :-

- It is not required to use the word 'Limited' or 'Private limited' at the end of its name.

Exemption granted by CG

- 14 days notice is sufficient instead of 21 days notice for calling general meetings
- It can hold only one board meeting in every half year instead of 4 board meeting in one calendar year.

Illegal Association (section 11)

An association or partnership is an illegal association if

- It exceeds
  a. 20 members (in any other case)
  b. 10 members (in banking business)
- Its object is the acquisition of gain i.e. to earn profit.
- It is not incorporated
  a. As a company under companies act 2013
  b. any other Indian law

Note:

1. A joint family carrying on business is not an illegal association (single)
2. If 2 or more joint family carrying on a particular business then it would be illegal if number of male or female members (major)

Exceeds

20 members　　10 members

(in any other case) (in banking business)

Effects:-

- Every members shall be personally liable
- Penalty up to Rs. 10,000 per member
- Even a subsequent reduction in the number of members cannot make it legal.
- It cannot be sued or be sued in its own name.
- It cannot enter into any contract in its own name.

Government company [Section 2(45)]:-

It means a company in which at least 51% of the paid up capital (equity shares + preference shares)

Is held by

Central government State government (S) both jointly

Note:-

A company which is a subsidiary of a Govt. Co is also a Government Co.

Body Corporate or Corporation [section 2(11)]:-

Definition :

It includes a company incorporate outside India but doesn't includes

- A co-operative society
- Any other body corporate specified by CG

Meaning:

It means an association of person

- Incorporated under any law for the time being in force.
- Separate legal entity
- Perpetual succession
- Common seal.

Public Financial Institution [section 2(72)]

Definition: It means

- LIC
- IDFC
- UTI
- any institution notified by CG in consultation with RBI

Meaning : CG by notification in the official gazette specified certain institution to be a public financial institution on the basis of following conditions:-

- Established under any central or state act
- Hold 51% or more of the paid up capital by CG or SG(s) or jointly.

Conversion of private co. into public company

(A) By default (section 43)
(B) By choice (section 44)

(A) By Default

- When a Private co makes a default in complying with the provisions of Sec 2(68).
- The company shall ceases to be entitled to the privileges and exemptions.
- The act shall apply to the company as if, it was not a private company.
- CLB on an application made by the Company or any other interested person may restore the privileges if, it is satisfied that the
  a. Failure was accidental or due to some sufficient cause.
  b. It is just and equitable to grant relief.

(B) By Choice

- Convey the Board meeting.
- Pass the resolution approving the conversion in board meeting
- Hold the general meeting (GM)
- Pass the Special Resolution(SR) in GM
  a. To delete the Sec 2(68)
  b. To delete the word Private limited.
- File a copy of Prospectus or Statement in lieu of Prospectus within 30 days of passing SR with ROC.
- Obtain fresh certificate of incorporation

Additional points :-

1. Increase the no of members to 7 from 2.
2. Increase the no of directors to 3 from 2.
3. Increase the paid up capital to 5 lakhs from 1 lakh.

Conversion of public company into private company:-

- Pass the special resolution and insert the section 2(68).
- Add the word "Private limited" at the end of its name.
- Obtain the approval of CG within 3 months of alteration of article.
- File a copy of amended article within 1 month of the receipt of approval of CG with ROC.

Additional points to be altered:-

1. Maximum number of members reduced to 200 from unlimited number.
2. Transfer of shares will be restricted .
3. Prohibition in the issue of prospectus .