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DEPARTMENT OF COMMERCE

JANTA KOSHI COLLEGE BIRAUL, DARBHANGA

**FOR-LNMU B. COM PART -2 Hons paper -III Business
and Regulatory Framework , unit-4 Indian company
Act 1956(as amended till) Lecture no -3**

***Question 9 :- How many minimum and maximum
number of members in a public company?***

***Ans:- A public Company must have at least 7 members.
However, there is no restriction on maximums members
in a public company.***

Question 10 :- What do you mean by 'Private Company?'

Ans :- Company: as defined by section 2 (68) means a company having a minimum paid-up share capital as may be prescribed and by its articles of association

(i) Restricts the right of the members of the company to transfer its shares

(ii) Except in case of one person company, limits the number of its members to 200, excluding members who are or were in the employment of the company.

(iii) Prohibits any invitation to the public to subscribe for any securities of the company name of a private company must end with words 'Private Limited'.

It is worth mentioning that prior to the commencement of the Companies (Amendment) Act, 2015, there existed a requirement of minimum paid up share capital 1 lakh for incorporation of a private company.

The Amendment Act has omitted this requirement so that there may be ease of doing business.

Question11. What do you mean by 'Public Company'?

Ans:- Public Company : According to Section 2 (71) of the Companies Act, 2013, 'Public Company' means a company which is not a private company. It can invite the public to subscribe its shares and does not have any restriction on the transfer of shares. The minimum number of persons required to form a company is seven and there is no maximum limit.

Subsidiary of a public company whether constituted as a private company or public company shall be regarded as public company. It is worth mentioning that prior to the commencement of the Companies (Amendment) Act, 2015, there existed a requirement of minimum paid up share capital of 5 lakhs for incorporation of a public company.

The Amendment Act has omitted this requirement which would mean ease in incorporation of companies

- (ii) Except in case of one person company, limits the number of its members to 200, excluding members who are or were in the employment of the company.**

- (iii) Prohibits any invitation to the public to subscribe for any securities of the company name of a private company must end with words 'Private Limited'.***

It is worth mentioning that prior to the commencement of the Companies (Amendment) Act, 2015, there existed a requirement of minimum paid up share capital 1(one) lakh for incorporation of a private company.

The Amendment Act has omitted this requirement so that there may be ease of doing business.

Question.12. What are the kinds of company on the basis of members?

Ans :- On the basis of the number of members, a registered company may

- (i) Private Company***
- (ii) Public Company ; And***
- (iii) One Person Company***

Question 13: What is meant by 'One Person Company'?

Ans:- One person company (OPC) is a new concept in India under the Companies Act, 2013.

Section 2 (62) of the Companies Act, 2013 defines that Person Company“ means a company which has only one person as a member. One person company is required to identify in its name in bracket as “One Person Company” after its name.

Formation (Section 3 (1)1. A One Person Company (OPC) may be formed for any lawful purpose by one person, as a private company, by subscribing his name to a Memorandum of Association and complying with the requirements of the Act in respect of registration.

Section 3 (1) further provides that the Memorandum of Association of One Person Company shall indicate the name of the other person who shall become the member of the company in the event of subscriber's death or his incapacity to contract due to insanity, etc.

A written consent of such person would be required to be filed with the Registrar of Companies at the time of incorporation along with memorandum and articles. Such person can withdraw his consent.

The name of such person can also be changed by the member at any time. Any change in the name of the person nominated by the member shall be intimated to the Registrar within such time and in such manner as may be prescribed. Any change in the name of the nominee shall not be deemed to be a change in the memorandum of the company.