

What will you learn in this chapter ?

- 5.1 Meaning and Importance of Articles of Association
- 5.2 Legal Provisions of the Companies Act about the Articles of Association
- 5.3 Contents of the Articles of Association
- 5.4 Meaning and introductions of Tables F, G, H, I and J given under the Schedule I of the Companies Act, 2013
 - 5.4.1 Table F
 - 5.4.2 Table G
 - 5.4.3 Table H
 - 5.4.4 Table I
 - 5.4.5 Table J
- 5.5 Alteration in the Articles of Association
- 5.6 Duties of the Secretary regarding alteration in the Articles of Association
- 5.7 Doctrine of Indoor Management its exceptions
- 5.8 Distinction between the Memorandum of Association and Articles of Association

Introduction

In a business world the Company format is the best format. However, it is not a living person. It is given a status of artificial person by law. In order to come into force (activate) this legal personality, the registration of necessary documents before the Registrar of Companies is must. Memorandum of Association is important among these documents. Articles of Association is another important document. It is meant for control of internal affairs of a company. Articles of Association is for carrying out internal administration of a company.

5.1 Meaning and Importance of Articles of Association

Meaning : “Articles means the Articles of Association of a company as originally framed or as altered from time to time or applied in pursuance of any previous Company Law or the Companies Act, 2013.”

“Articles means the set of rules governing the internal administration of a company.”

Importance : The rules of internal administration of a company are determined through the Articles of Association. The provisions of the Articles of Association of a company cannot be contrary to the provisions of Memorandum of Association. It implies that the provisions of Memorandum of Association of a company are binding to Articles of Associations. It is presumed that every person dealing with the company is aware of the provisions of Articles of Association. Memorandum of Association is the basic document of a company; whereas Articles of Association determines the rules of internal administration of a company within the limits of its Memorandum of Association. The importance of Articles of Association can be described as under :

(1) **Useful in Daily Administration :** It shows the necessary policy and rules for proper administration and functioning of a company by remaining within the area of work shown in the Memorandum of Association. With the help of Articles the daily administration of a company goes on.

(2) **Important for Secretary :** Articles of Association is very important for the Secretary. The definite rules prescribed in the Articles of Association regarding the interpretation of various routine words of a company, how to distribute the shares, how to call for instalments of shares, how to forfeit and transfer shares etc. help the Secretary in office administration and functioning of a company. It also provides guidance to secretary for appointment of Directors, auditors and clarifies their authority, duties and responsibilities.

(3) **Useful for the Shareholders :** Articles of Association is helpful to fulfil the objects stated in the Memorandum of Association. Articles of Association also contains clarification of the rights and liabilities of the Shareholders. Articles of Association is the supplementary document of Memorandum of Association.

(4) **Useful for Determining Various Relations :** Articles of Association determines the relation between the company and its members. It also regulates the mutual relations of the members of a company and internal relations of the members.

(5) **Useful to Ascertain the Nature of a Company :** Articles of Association is a document through which whether a company is a public company or a private company can be known.

5.2 Legal Provisions Pertaining to the Articles of Association

Important provisions of the Articles of Association are narrated in various sections of the Companies Act, 2013, which are as follows :

- (1) Every person giving signature in the Memorandum of Association has to put his signature in the Articles of Association.
- (2) The signatories have to mention their address, occupation and other necessary particulars.
- (3) Signature must be done in presence of at least one witness.
- (4) The company may accept all rules or any of the rules mentioned in the specimen of the Articles of Association or matters of Table F.
- (5) A company is bound to follow the provisions of Articles of Association. Company cannot escape from its liabilities towards members.
- (6) Articles of Association must not contain any provision contrary to the Memorandum of Association.
- (7) Private company has to show the following three special provisions in its Articles of Association :
 - (a) There must be minimum 2 and maximum 200 members in the company.
 - (b) There must be restriction on the Share Transfer.
 - (c) The company must not invite the public to purchase its own shares.
- (8) The law must presume that every person related to the company is aware about the Articles of Association of the company. Any such person may inquire about the Articles of Association by approaching at the office of the company and also obtain the copy of it by payment of requisite fees.
- (9) Company may amend its Articles of Association by passing special resolution subject to the conditions of its Memorandum of Association and provisions of the Companies Act, 2013.
- (10) Articles of Association must contain the affidavit of the persons mentioned as the first promoters containing the statement to the effect that they are not found guilty for any offence relating to the establishment, incorporation or administration of the company.

5.3 Contents of Articles of Association

Generally the Articles of Association contains the following particulars :

- (1) If any primary agreements have been entered into or not, if so the same have been accepted or not.
- (2) The number of shares and face price thereof.
- (3) Rules relating to the share instalments.
- (4) Rules relating to the transfer of shares.
- (5) The lien of the company about the value of unpaid shares.
- (6) Rules about transmission and forfeiture of shares.
- (7) The number of members in a company with unlimited liability and the capital invested in it.
- (8) Restriction on transfer of shares in a private company.
- (9) Rules relating to the General Meeting.
- (10) Rights and duties of the Board of Directors
- (11) Rules relating to the Dividend.

5.4 Introduction of Tables F, G, H, I and J of Schedule I of the Companies Act, 2013

5.4.1 Table F : Articles of Association of a company Limited by Share

Table F of Schedule I of the Companies Act, 2013 is for the companies limited by Share. Following matters are included in it :

- (1) Explanation of words given in the Companies Act, 2013.
- (2) Common seal/stamp of a company and the explanation/rules for its use.
- (3) Provisions regarding Share capital and the rights of Shareholders

- (4) Rules regarding lien of a company on its shares
- (5) Rules regarding instalments of Shares
- (6) Rules relating to transfer of Shares
- (7) Rules regarding Share transmission – in case of death.
- (8) Rules regarding forfeiture of shares
- (9) Rules regarding change of share capital
- (10) Rules regarding capitalization of profit
- (11) Rules for buy back of share capital
- (12) Rules relating to General Meeting
- (13) Rules for the conducting of General Meeting
- (14) Procedure about adjournment of Meeting
- (15) Rules/explanations about the voting rights
- (16) Rules about proxies
- (17) Rules about the Board of Directors.
- (18) Rules relating to the number of Directors and their remuneration
- (19) Procedure to conduct the meeting of Board of Directors
- (20) Rules regarding the use of common seal/stamp and its preservation.
- (21) Guidelines regarding Dividend
- (22) Rules relating to reserved fund
- (23) Rules relating to Accounts
- (24) Procedure for closure/liquidation of a company
- (25) Indemnity contracts for the officers, its procedure and rules.

5.4.2 Table G : Article of Association of a Company Limited by Guarantee and having Share Capital :

A company where the liabilities of its members as per the Memorandum of Association is limited to the extent of the amount of the shares purchased by the members is called Company Limited by Guarantee and having Share Capital.

At the time of the registration of such companies the number of its members has to be 100(one hundred). However, as per the requirement of the company, the Board of Directors has powers to increase the number of its members from time to time.

Such companies have to accept these provisions over and above Table F.

5.4.3 Table H : Articles of Association of a Company Limited by Guarantee and not having Share Capital :

Where the liability of the members of a company in the event of its liquidation is limited to the extent of the contribution agreed to be paid in the assets of the company as per the Memorandum of association it is called a company limited by Guarantee and not having Share Capital. Following matters are to be included in such Articles of Association :

- (1) Number of Members : For the purpose of registration of a company the number required is 100. The company may increase the number of its members as per its requirements.
- (2) General Meeting : All the meetings except General meeting will be considered as special meetings.

- (3) Rules regarding conducting of General Meeting.
- (4) Procedure for Adjournment of Meeting.
- (5) Rules regarding Voting Rights
- (6) Board of Directors and regulation of their meetings
- (7) Chief Administrative Officer, Manager, Company Secretary, Chief Financial Officer and their appointment – rules to remove them
- (8) Rules regarding common seal/stamp.

5.4.4 Table I : Articles of Association of Company with Unlimited Liability and having a Share Capital :

The liabilities of the members of such company are unlimited. Such companies also issue shares. Just like Sole Proprietorship Firm or Partnership firm the liabilities of members are unlimited. At the time of winding up of such company, if the company does not have sufficient assets to set off its liabilities then the member has to realise debt of a company from his personal properties. Such company cannot use the word “Limited” after its name.

Such company may be commenced with 100 members. However, depending upon the requirement, the Board of Directors may increase the number of its members from time to time.

The provisions of Articles of Association prescribed in Table F are also applicable to such companies.

5.4.5 Table J : Articles of Association of Company with Unlimited liability and not having Share Capital :

The liabilities of the members of such company is unlimited. There is no share capital in such company. In such companies also just like sole proprietorship or partnership firm the liabilities of the members are unlimited. It means that when the company is to be wound up, if the company does not have sufficient assets to realize its debt, the same is to be realized from the personal assets of its members.

Such company may be commenced with 100 members. However, depending upon the requirement, the Board of Directors may increase the number of its members from time to time.

The Articles of Association prescribed in Table H is also applicable to such companies ever and above Table 3.

5.5 Alteration in Articles of Association

The following matters are to be considered while making alteration in the Articles of Association :

- (1) Special Resolution is required to be passed under the Companies Act, 2013 in order to have following alteration in the Company :
 - (a) To convert Private Company into Public Company
 - (b) To convert Public Company into Private Company

Prior sanction of the Tribunal is required to be obtained before converting Public Company into Private Company.

The above mentioned alterations are subject to the conditions laid down under the Articles of Association.
- (2) If a private company as per the Companies Act makes such alterations in its Articles of Association so as to remove the limitations or restrictions included in it, it ceases to be a private company from the date of its alteration.
- (3) Special Resolution is required to be passed in case of alteration about increase in the remuneration of the Directors, Managing Director or Full time Director.
- (4) No alteration can be made in contravention of the provisions of paramount.

- (5) No alteration shall be made against any existing laws of India.
- (6) No alteration in contravention of the Memorandum of Association shall be permissible.
- (7) No alterations can be made in the Articles of Association which lead to cheating, fraud or coercion to the members.
- (8) The alteration in the Article of Association must have been made in the interest of a company.
- (9) Alteration in the Articles of Association shall not be made against the provisions of the Companies Act, 2013.

5.6 Duties of the Secretary Relating to the Alteration in the Articles of Association

In order to have alteration in the Articles of Association of a company, the Secretary has to perform following duties :

- (1) To prepare the notice for calling upon the meeting of Shareholders and such notice has to be sent to the shareholders so as to reach them before 21 days of the meeting.
- (2) To prepare the agenda of the work to be done at the meeting. The proposed alteration to be made in the Articles of Association should be included in such agenda.
- (3) General Meeting is required to be called for passing special resolution. It is the duty of a Secretary to maintain the minutes when the meeting is going on. To count votes in case of voting and to have note thereof etc. are the duties of the Secretary.
- (4) To make necessary arrangement to send a copy of special resolution about altering the Articles of Association for the registration before the Registrar within 30 days. after having passed in a General Meeting.
- (5) When the minutes of the proceeding of a meeting is to be prepared, special type of minutes are to be included therein.
- (6) To make arrangement to obtain permission of Tribunal in any matter where the same is necessary.
- (7) After having included the alterations in the Articles of Association, the newly printed copy of Articles of Association is to be registered before the Registrar in a prescribed period. The alterations of Articles of Association comes into force only after having registered before the Registrar.

5.7 Doctrine of Indoor Management

The meaning of this principle is that the outsider (Third Party) dealing with the company believes that the internal management of a company is regular and proper. It is presumed that the outside persons are conversant with the particulars of the Memorandum of Association and Articles of Association. This presumption is made because of the fact that the Memorandum of Association and Articles of Association, both are public documents. Hence, ignorance of any person about these documents of a company is not sustainable in the eyes of law. A common man may presume that whatever transactions done by the company must have been done as per the rules mentioned in the Articles of Association. Common man can presume that all the proceedings to complete the work which is approved by the Memorandum of Association and Articles of Association must have been complied with. This principle is known as Doctrine of Indoor Management.

Exceptions of the Doctrine of Indoor Management :

- (1) The doctrine of Indoor Management is not applicable in the event of such an act done by a company of which it has no power.
- (2) If any document is obtained from the company by fraud, this doctrine is not applicable.
- (3) When any outsider is aware about the irregularity of internal administration of a company, this principle does not apply.
- (4) When it becomes necessary for outsider dealing with a company to inquire about the company, in spite of that he does not make inquiry, no advantage of this doctrine is available.
- (5) When the act of an officer of a company is apparently without power, the doctrine of Indoor Management is not applicable.

In the event of above mentioned exceptional circumstances the doctrine of Indoor Management is not applicable. Therefore the outsiders (Third Party) get protection against the internal mismanagement and negligence of the company.

5.8 Distinction between Memorandum of Association and Articles of Association

Sr. No.	Point	Memorandum of Association	Articles of Association
(1)	Registration of Company	It is compulsory for every company to prepare this document for obtaining Certificate of Registration.	It is optional to prepare this document for the companies limited by and having share capital. If a company does not prepare this document, it can adopt Table F.
(2)	Necessity of Registration	It is mandatory to register this document before the Registrar of Companies.	It is not necessary to register this document if a company adopts Table F.
(3)	Significance	Memorandum of Association is the basic document.	Articles of Association is a document for internal administration of a company.
(4)	Object	Memorandum of Association determines the area of work of a company. Company cannot proceed beyond the area of work mentioned in Memorandum of Association.	It determines as to how the internal administration of a company functions.
(5)	Alteration	It is not easy to make alteration in Memorandum of Association. It is a very long process to make alteration in it, which is complicated and expensive. Special Resolution is to be made and necessary permission is to be obtained.	Articles of Association can be altered easily. It can be altered by passing special resolution in the General Meeting. Permission of Tribunal is taken in special cases.
(6)	Limitation of Powers	Company cannot perform any activity beyond the object described in Memorandum. If any such act beyond its scope is done by a company, even the members of that company cannot ratify it. Such acts are called ultra vires acts.	Any act done beyond the powers of the Articles of Association, the members of the company can sanction the same
(7)	Relations	Memorandum of Association has relation with outside persons and public at large	Regulation of internal relations between a company and its members is done through Articles of Association.
(8)	Supremacy	Memorandum of Association is not subordinate to Articles of Association.	Articles of Association is subordinate to the Memorandum of Association. Any provision made in the Articles of Association, contrary to the Memorandum of Association is null and void.
(9)	Third Party	Third party can get advantage of the provisions of Memorandum of Association.	Third party cannot take advantage of the provisions of the Articles of Association.

(10)	Particulars	Memorandum of Association has six clauses (1) Name Clause (2) Registered Office Clause (3) Object Clause (4) Capital Clause (5) Liability Clause (6) Subscription Clause	Articles of Association includes Share Capital, its kinds, Share Transfer, Forfeiture, Board of Directors, Administration of Meeting, Accounts, Voting Rights etc provisions.
------	-------------	--	---

What have you learnt in this chapter ?

Memorandum of Association and Articles of Association are the important documents for the establishment of a company. After registration of these documents, the artificial character of a company starts getting legal entity. Articles of Association is a document regulating the internal management of a company.

Meaning : “Articles means the set of Rules regulating internal management of a company.”

Importance : (1) Important in the daily administration. (2) Important for the secretary (3) Useful in achieving the objects (4) Useful in determining various relationship (5) To ascertain whether a company is a public company or private company.

The provisions of the Companies Act, 2013 relating to Articles of Association:

(1) The subscribers have to put their signatures. (2) Signature in presence of witness is must. (3) Entire specimen table or part thereof may be taken. (4) It is necessary to observe the provisions of the Articles of Association. (5) It is not binding to the third party. (6) The provisions of Articles of Association must not be contrary to those of Memorandum of Association. (7) Three main characteristics of a Private Company : (i) Limited Number of members, (ii) Restriction on Share transfer, (iii) No invitation to the public to purchase the shares (8) Any person can peruse the Articles of Association of a company and also obtain copy thereof. (9) It can be altered by special resolution. (10) Statement from the promoters to the effect that they are not involved in any offences.

Contents of the Articles of Association :

Table F : Particulars to be included in the Articles of Association of a Company limited by Shares are as follows :

(1) List of the words of the Companies Act (2) Type of Share Capital (3) Rights of Shareholders (4) Share lien (5) Transfer of Share instalments/ Rules about the forfeiture (6) Change in Share capital (7) Investment of profit. (8) Buyback of shares (9) Rules regarding the administration of General Meeting (10) Right to vote : Rules about proxies (11) Rules about the remuneration of Board of Directors (12) Common Seal/stamp-its use- preservation (13) Rules about Dividends (14) Rules regarding reserves - Accounts (15) Rules about indemnity.

Table G : In a **Company Limited by Guarantee and having Share Capital** - The liability of the members is limited only to the extent of number of shares in which they have given guarantee. Such companies have also to accept the Articles of Associations of Table F.

Table H : Articles of Association of a **Company Limited by Guarantee and not having Share Capital** has to accept this type of Articles of Association which includes (1) number of members (2) General Meeting (3) conducting of the meeting/adjourn ,rules for voting rights (4) Board of Directors (5) Appointment of Administrative Officers – Rules for removal (6) Common seal.

Table I : In a **Company with Unlimited Liability and having a Share Capital**, The liabilities of the members of such company are unlimited and beyond the amount of shares purchased by them. Such companies are not permitted to use word “Limited” after their names and they have to accept the Articles of Association as prescribed in Table F.

Table J : The liabilities of the members are unlimited in a **Company with Unlimited liability and not having Share Capital**. In order to realize the liabilities of such company members may pay the dues from their own assets. Such companies have to also accept the Articles of Association as prescribed in Table H.

Alteration in Articles of Association :

- (1) Special Resolution is required to be passed in order to convert Private Company into Public Company and Public Company into Private Company and sanction of Tribunal is also required to be taken in certain cases.
- (2) Due care should be taken that no alteration should escape from the Memorandum of Association or transfer.
- (3) Special Resolution should be passed in order to change the remuneration of Directors.
- (4) Alteration cannot be made contrary to the provisions of existing laws or Memorandum of Association.
- (5) No alterations can be made against the interest of a company
- (6) No alteration can be made against the provisions of the Companies Act, 2013.

Duties of the Secretary in Alteration of Articles of Association :

(1) To prepare the notice for meeting of shareholders. (2) To prepare the agenda of the meeting (3) To call for the meeting- to make arrangement of counting of votes at election (4) To inform Companies Registrar within 30 days of alteration after seeking permission from central Government. (5) To make arrangement for obtaining the permission of the Tribunal. (6) To register the printed copy of the Articles of Association after alteration before the Registrar.

Doctrine of Indoor Management :

It is presumed that the persons dealing with the company are aware of the Memorandum of Association and Articles of Association. Any prudent person believes that whatever transaction is made by the company is as per the provisions of the Articles of Association. This is called the Doctrine of Indoor Management. :

Exceptions : (1) The company has no power to do particular work (2) When the document is obtained by fraud (3) When the third party knows about the irregularity (4) No inquiry is made when it is necessary (5) The work of any officer of the company is apparently beyond power.

Distinctions between Memorandum of Association and Articles of Association :

(1) Registration of company (2) Necessity of Registration (3) Importance (4) Object (5) Alteration (6) Limitation of powers (7) Relationship (8) Supremacy (9) Third Party (10) Particulars

Exercise**1. Select suitable option from the given options :**

- (1) Articles of Association
 - (A) determines the objects of a company
 - (B) regulates the mutual relations among the company and its members
 - (C) determines the relations between a company and third party
 - (D) determines the relations between a company and Government
- (2) Which of the statement is incorrect in relation to Articles of Association ?
 - (A) Rules relating to objectives. (B) Rules relating to share Instalments.
 - (C) Rules relating to Rights and duties of Board of Directors.
 - (D) Rules regarding share transfer.

- (3) is for the Internal Administration of a company.
 (A) Memorandum of Association (B) Prospectus
 (C) Articles of Association (D) Company Secretary Act
- (4) Personality of a company is
 (A) Eternal
 (B) By registering necessary document with registrar of companies, it obtains legal identity.
 (C) given through shareholders (D) given through Board of Directors.
- (5) Which of the following types of Articles of Association is applicable to a Company with Unlimited Liability and not having a Share Capital ?
 (A) Table I (B) Table H (C) Table F (D) Table J
- (6) Transfer of shares of private company is
 (A) Independent (B) Decided by the members inter se
 (C) Restricted (D) not permissible at all
- (7) Which of the following types of Articles of Association is applicable to a Company with Unlimited Liability and having a Share Capital ?
 (A) Table I (B) Table F (C) Table G (D) Table H
- (8) Doctrine of Indoor Management is
 (A) Shareholders know what is going on in a company
 (B) Board of Directors know how the company administration is done
 (C) Employees know that the management of a company is proper.
 (D) Third party presumes that the internal management of a company is regular and proper.
- (9) Which of the following types of Articles of Association is applicable to a Company Limited by Guarantee and not having Share Capital ?
 (A) Table G (B) Table H (C) Table I (D) Table J
- (10) Which of the following types of Articles of Association is applicable to a Company limited by Share Capital ?
 (A) Table F (B) Table G (C) Table I (D) Table H
- (11) Which of the following types of Articles of Association is applicable to a Company limited by Guarantee and not having share capital ?
 (A) Table A (B) Table I (C) Table H (D) Table J

2. Answer the following questions in one sentence :

- (1) Within how many days the alterations of Articles of Association are required to be registered before the Registrar ?
- (2) Which type of liability do the members of company limited by guarantee have ?
- (3) Which members have unlimited liability ?
- (4) How many days' prior notice is to be given to the shareholders for alteration of Articles of Association ?
- (5) How many Tables are there in the Companies Act, 2013 for Articles of Association ?

- (6) What is the maximum number of members in a private company ?
- (7) What is the minimum number of members required for a private company ?
- (8) Which document determines the relationship among the members ?

3. Answer the following questions in short :

- (1) For which alterations of Articles of Association is the permission of Tribunal necessary ?
- (2) State the meaning of Articles of Association.
- (3) Which documents are necessary to establish an artificial personality ?
- (4) When does the alteration of Articles of Association come into force ?
- (5) How is Articles of Association useful in daily administration ?

4. Answer the following question to the point : :

- (1) To which company is Table J applies ?
- (2) To which company is Table I applicable ?
- (3) Table H is applicable to which company ?
- (4) Which matters are included in Table G ?
- (5) How is the Articles of Association important to the Secretary ?
- (6) State the exceptions of the Doctrine of Indoor Management.

5. Answer the following questions in detail :

- (1) What is Doctrine of Indoor Management ?
- (2) State the duties of the Secretary for altering Articles of Association.
- (3) Which matters are included in Table F ?
- (4) State the provisions of the Companies Act, 2013 regarding the Articles of Association.
- (5) Distinguish between Memorandum of Association and Articles of Association. (any five)
- (6) Write Note – Alteration in the Articles of Association.
- (7) Which matters are included in Table H ?
- (8) Which particulars are to be included in the Articles of Association ?
- (9) State the significance of Articles of Association.

