

**LL.M. III SEMESTER
(BUSINESS LAW GROUP)
COMPANY LAW
L-3007**

Introduction of Company Law

A person who wishes to engage in some form of business activity will need to do so via some form of business structure , with differing Business structures providing different advantages and disadvantages the common business structures can be –

Sole Proprietorship

Ordinary Partnership

L.L.P.

Company

Two of these business structures (the LLP and company) are created via a process is known as incorporated business structures.¹

Sole Proprietorship – The simplest and most popular business structure is the Sole proprietorship . A Sole proprietorship is simply a single natural person carrying on some form of Business activity on his own account , whilst a Sole proprietorship will be carried on by an individual for that individuals benefit, Sole proprietorship comes in two forms.

¹. 1 – **Revision** and study guides from the No. 1 legal education Publisher – “Concentrate Company Law”. Third edition – LEE ROACH. Oxford University Press. Published online Sep. 2014

1 – Where the Sole proprietorship is a professional (Advocate , Accountant) Sole practitioner

2 – Where the Sole proprietor is not a professional he will be known as a trader. Liability in this form of business is sole and unlimited.

Partnership – Two or more persons who wish to carry on business together can't do so as a Sole proprietorship for obvious reasons.

For such persons a partnership may be a more appropriate business structure.

L.L.P. - It's an hybrid form of Business which a partnership with an incorporated body, limited liability.

- **Company Law** – Between 1844 and 1856, the legislation laid down the foundations of a forum of business association which become the most important and powerful in the economy.

- **Running** of the company's business is then normally delegated to directors who are appointed by share holders.

- **Any assets** accumulated by the company are owned both legally and beneficially by the company alone and the share holders have no direct Interest in them at all.

- This is as a result of the fact that a registered company is an incorporated association, new legal personality or a company is a separate legal personality.

- **Company** – Company is a separate legal entity , it's a artificial person , a creation of law, having a distinct existence from the promoters & workers. It provide a separate liability or limited liability from all.

Company – Latin word – Com + Pany

Com – means together & Pany means a piece of bread – An association of people who take their meals together.

Smith vs Anderson (1880) in this case it was held that :- A Company in Broad sense may mean – An association of Individuals formed for the same purpose. Economic purpose or Non Economic purpose.

As per justice Lindley :-

Company is an association of persons – who contribute money or monies worth – To a common stock / capital – Employ it in trade or Business – and share profit or loss arising there from.

As per justice Marshel- Company is an artificial person-

Invisible

Intangible

Existing only in the eyes of Law (Having no body , no mind , no soul)

Prof. L.C.B. Grover in his Modern Company (1957) while equating company with the river Thames in U.K. observers as follows:-

- Company is like river Thames – member may come & go but company can go for ever.
- King is dead , long live the king – meaning the company never dies like a kingdom .
- Not even a hydrogen bomb could destroy a company , meaning the company has perpetual succession or permanent life.
- **Prof. Haney** defined company as an artificial person – created by law, having distinct name , limited liability and perpetual succession.²

History of Company Legislation :-

History of English Company Law

Classification of period.

- 1- From middle ages (1000 A.D.) till the passing at the Bubbles act in 1720.
- 2- From 1720 to 1825 the repeal of the Bubbles Act
- 3- From 1825 to till date

The first companies Act , 1844

² - **An Easy Approach to Company and Compensation Law** – by J.P. Sharma
Published by- Ane Books Pvt. Ltd. 2010

History of Indian Company Legislation

Indian Companies Act	British Companies Act
1850	1844
1882	1882
1912	
1913	1908

Various Amendments :- 1914 , 1915 , 1920 , 1926 , 1930 , 1932 , 1936 .

The amendment in 1936 was based on the lines of British companies Act of 1929 and become operative from 15th Jan 1937.

After Independence – amended on the Recommendations of –

Bhabha Committee Report :- Chaired by Mr. C.H. Bhabha

1st April 1956 The companies Act 1956 implemented further amended in 1960
1962 , 1963 , 1964 , 1965 , 1966 , 1967 , 1969 , 1971 , 1977 , 1985 , 1988 , 1996 ,
1999 , 2000 , 2002 , 2006 & last 2013

Recently enacted companies Act 2013 replaced the All Provisions Acts.

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