

An Outline of
**Company
Secretarial
Practice**

V. Balachandran • P.K. Ghosh



Sultan Chand & Sons

An Outline of
**Company
Secretarial
Practice**

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Foreword

KK BALU, B.A., B.L. PGD.T.L., D.C.L.B.P., FICA

Advocate & Arbitrator

(Former Vice-Chairman, Company Law Board)

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It gives me great pleasure to write this foreword on the book authored by Prof. Dr. V. Balachandran. The title reads as “An Outline of Company Secretarial Practice”, whereas the book is actually meant for giving students pursuing commerce and business courses an overview of the conceptual as well as procedural aspects of Company Law. These aspects have been captured in his own inimitable style. Being a book meant for students, the author has taken care to write the legal aspects in simple language inducing interest on the subject. While the author has authored several books on various topics, it is of particular importance to mention here that the book on “An Outline of Company Secretarial Practice” is a compilation of the whole procedural aspects of corporate functions / requirements in a compact form under one roof benefitting immensely the student community and it will also serve as a valuable guide to the teachers.

Company Law is not a new subject. Having been the Vice-Chairman of Company Law Board, I have dealt with a few intrinsic chapters of Company Law and I am aware of the complex nature of the subject as this law applies to small companies as well as multinational corporations operating in India. Under the Companies Act, a company is treated as an independent corporate legal entity. There are various stakeholders such as the shareholders, creditors and customers. The law has thought it fit to create a responsible body of persons known as the Board of Directors to direct the activities of the company and define its policies and carryout its objectives. Most of the powers of the company are exercised by the Board of Directors. Wherever the law or the Articles of Association stipulates shareholders must approve the proposals put forward by the Board of Directors.

The author has dealt with all these factors in a lucid and intelligible language in several conveniently organized chapters. I went through some of the chapters

such as incorporation of companies, directors, dividends, resolutions and minutes, statutory books and returns. I would like to place it on record that these subjects have been dealt with in a simple manner so that students are in a position to understand the structure of the law and what it aims to achieve. The author has given a few formats also which will be useful to get an idea of the manner in which practical and procedural aspects are handled. The review questions will help the students to do a self-assessment of what they have understood from the reading of the chapters thereby inculcating confidence in themselves.

The efforts taken by the author deserves to be appreciated. Anyone who goes through the book will be greatly benefited to get an outline of the law and also understand the practical and procedural aspects thereto. In the three parts of the book, while Part I dwells on Secretarial Practice / Company Law Procedures, Part II gives model question papers and Part III of the book covers rules, forms and fees under the Companies Act, 2013 for being useful in the day-to-day management of the business of companies.

I have to say that Prof. Balachandran has taken adequate endeavours to provide a simple account of the various aspects of company law including procedural aspects. I am of the view that the author has indeed facilitated students to get a grip over the subject especially the secretarial procedures for students of Business courses. This is a foreword, not a review. I, therefore, must deny myself the temptation to dwell upon the specifics of the book. The book deserves a wider appreciation. I have great pleasure in recommending the book not only to students but also academicians and professionals towards proper compliance with statutory and corporate governance requirements apart from serving as a preventive rather than curative measure.

A handwritten signature in black ink, appearing to read 'Baluu', is written over a light grey rectangular background.

KK BALU
11.10.21

DEDICATED TO
JAGATHGURU HIS HOLINESS
SHRI. KANCHI MAHASWAMIGAL

Preface

The corporate sector has become dynamic and vibrant on account of development in Science, Information and Communication Technology. The enhanced developments in ICT have changed not only the routine life of individuals but also brought about significant changes in the functioning of corporate sector. There has been an imperative need on the part of the Government to make changes in various laws particularly the Companies Act. In tune with changes witnessed at the global level, the 57 year old erstwhile Companies Act, 1956 was totally repealed and in its place the Government enacted Companies Act, 2013. The Act came into force from April 1, 2014. The Companies Act, 2013 intended to facilitate more friendly business regulations through enhanced e-governance initiatives to accelerate the Indian corporate sector. The Act has introduced numerous provisions to overcome the shortcomings and loopholes noticed in the erstwhile Companies Act, 1956. The Act has introduced new concepts such as one person company, small company, associate company, dormant company, corporate governance, corporate social responsibility, accounting standards, auditing standards, secretarial standards, e-voting, conducting meetings through video conferencing, speedy registration process compatible with e-governance.

The Companies Act, 2013 was rewritten to facilitate easy interpretation and to delink the procedural aspects from the substantive law. The book is designed to incorporate the procedural aspects of Company Law and covered in every chapter the duties of secretary, for instance secretarial procedures with respect to company incorporation, changes in various clauses of MOA and AOA, issue of prospectus, fresh issue of shares, issue of right shares, issue of bonus shares, issue and redemption of debentures in the light of SEBI [Issue of Capital and Disclosure Requirements] Regulations, 2018, secretarial procedure with respect to issue of sweat equity shares, allotment of shares, issue and redemption of preference shares, alteration of capital, capital reduction, increase of capital, issue of notices, agenda and minutes of board meetings and general meetings etc.

Chapter 10 titled Company Secretary has been stuffed with not only the role of whole time secretary but also the areas of practice and the various services being rendered by the Company Secretary in practice, in the present liberalised and globalised scenario. Equipped with multi skills and professional competence, today Company secretaries play several roles such as (a) As a Statutory Officer; (b) As a Compliance Officer; (c) As a Coordinator – Internal and External; (d) As a Chief Administrative Officer; (e) Public Relations Officer; (f) As a Legal Officer; (g) Custodian of properties of company; and (h) As a Governance Professional.

In order to provide adequate knowledge to the students of business courses either to work or undergo internship training in Secretarial Departments of companies, Four chapters from 11th to 14th are entirely devoted to understand both the theoretical aspects and practical aspects of conducting

board meetings and general meetings, besides explaining the key requisites of a valid meeting. To give practical exposure to the students, specimen resolutions, notices, agenda and details on agenda, minutes for Board meetings, Annual general meetings and Extraordinary General Meetings have been provided at the appropriate pages in this book.

The Government has brought in various amendments, namely, Companies (Amendment) Act, 2015, 2017, 2019 and 2020. On ease of doing business front, the Government of India has enacted the series of amendments, relaxations, exemptions and simplification in the various Acts, Rules, Regulations etc. covering various business related issues for the promotion of corporate sector. Some of the key amendments are highlighted in the book.

The special feature of the book is that it tries to cover the syllabi at all India level and is written in a simple and lucid style to be understood by a common man. There are many examples and explanation which make the book interesting reading. The book comprises of two parts, namely, Part I Secretarial Practice comprising mainly Secretarial Procedures and Part II Knowledge Refresher. The recent amendments and developments with respect to procedural aspects in company law have been incorporated in the book. The second part contains QUIZ in Company Secretarial Practice, ten Model Question papers, syllabus on Company secretarial practice adopted in some of the universities and colleges, List of forms used in day to day business, Fees payable for filing various documents under the Companies Act. Further, the past years question papers of some of the Universities are also included in the book. The fourteenth edition has discussed clearly in a simple style the key aspects of some of the provisions and mostly procedural aspects of Company Law.

Students pursuing B.Com, BBA, BL, M.Com, MBA, Allied business courses will find the book as a classroom textbook as in the past. Suggestions are welcome for further improvement and they will be gratefully acknowledged.

At this juncture, I wish to record my sincere thanks to the reputed Publisher of the book, M/s. Sultan Chand & Sons, New Delhi for their commitment, dedication, involvement their co-ordination and for nice printing of the book.

V. Balachandran
P.K. Ghosh

Syllabus

ALAGAPPA UNIVERSITY

II Year – III Semester, B.Com Corporate Secretaryship; Course Code: 7BCS3C1

Company Law and Secretarial Practice – I

Unit I: Company – Definition – Characteristics – Kinds of Companies – Promoters – Preliminary Contracts – Memorandum and Articles – Incorporation – commencement of Business – E-Filing – Secretarial Duties.

Unit II: Prospectus – Meaning – Contents – Registration – Statement in lieu of prospectus – Mis-statement in Prospectus – Shelf Prospectus – Red herring Prospectus – Abridged Prospectus.

Unit III: Shared Capital – Kinds of share capital – Issues of share – Underwriting of shares – Allotment of Shares – Secretarial duties.

Unit IV: Secretary – Meaning – Different types of secretaries – Company Secretary – Qualification – Appointment – Powers – Duties – Liabilities of Company Secretary.

Unit V: Borrowing Powers of a Company – Debentures – Kinds – Acceptances of Deposits – Secretarial Duties.

II Year – IV Semester, B.Com., Corporate Secretaryship; Course Code: 7BCS4C1

Company Law and Secretarial Practice – II

Unit I: Directors – Appointment – Qualification – Vacation – Removal – Resignation – Retirement – Rights – Duties and liabilities of directors – Secretarial duties.

Unit II:

Manager – Whole time Director – Managing Director – Appointment – Disqualification – Independent Director – Managerial remuneration – Secretarial duties.

Unit III: Company meetings – Types – Board meeting – AGM – EGM – Class meetings – Essential of a valid meeting – Secretarial duties.

Unit IV: Accounts and Audit – Inspection – Investigation – Prevention of oppression and mismanagement.

Unit V: Winding up of companies – Types of winding up – Secretarial duties.

BHARATHIDASAN UNIVERSITY **COMPANY LAW AND SECRETARIAL PRACTICE**

Unit I: Company – Definitions – Features – Kinds – Private Ltd. Company Vs. Public Company.

Unit II: Formation of companies – Promotion Stage – Commencement Stage – Memorandum of Association – Clauses – Articles of Association-contents – Prospectus – Contents.

Unit III: Shares – Kinds – Equity shares – Preference shares – Premium and Discount – Allotment – Minimum subscription – Forfeiture of shares – Debentures – Types – Dividend – Meaning – Types.

Unit IV: Secretary – Definition – Types – Company Secretary – Legal position – Qualification – Appointment – Rights, Duties and Liabilities – Termination.

Unit V: Meetings – Types – Annual General Meeting – Duties – Notice – Agenda – Quorum, Resolution – Types.

BHARATHIAR UNIVERSITY

B.Com., Corporate Secretaryship (Colleges) – 2018-19 onwards Company Law and Secretarial Practice

Unit I: Company – Definition – Characteristics – Kinds of companies – Doctrine of Lifting the veil – Promotion of a company – Company secretary – Appointment, legal position – Qualification – Duties and liabilities of a secretary.

Unit II: Memorandum of association – Forms – Contents – Procedures for alteration – Secretarial duties – Articles of association – Forms and contents – Procedures for alteration – The Doctrine of Indoor management – Distinction between memorandum and articles.

Unit III: Prospectus – Meaning and contents – Deposits – Deemed Deposits – Secretarial duties with regard to Prospectus and Deposits.

Unit IV: Share Capital – Kinds of capital – Alteration – Production – Issue and allotment of shares – Book building scheme – Share certificate – Transfer and transmission of shares – E-filing – Secretarial duties.

Unit V: Borrowing powers – Methods of borrowing – Mortgages and charges – Registration of charges – Legal provisions – Secretarial duties with regard to borrowing.

DELHI UNIVERSITY

3.3: Secretarial Practice

Objectives: To familiarise the students with the fundamental concepts and functions to be performed by corporate secretaries.

Unit 1: Company Secretary – Meaning & definition, Qualifications; procedure for appointment & dismissal of a secretary, Role of a Company Secretary – Rights, duties and liabilities; Qualities of a good Company Secretary.

Unit 2: Promotion of Companies and Secretarial Duties – Nature and types of Companies, Stages of Company Promotion and incorporation; Certificate of commencement of business; Secretarial duties & procedures for incorporations of Private and Public limited Companies and Company limited by guarantee.

Unit 3: Documents of Companies & Secretarial Duties – Memorandum of Association-definition, clauses, provisions and procedure for alteration; Articles of Association – definition, contents, provision & procedures for alteration; distinction between Memorandum and Articles of Association, Prospectus – contents & statement in lieu of prospectus; doctrines of ultra vires; constructive notices, indoor management and lifting of Corporate Veil; drafting of Memorandum and Articles.

Unit 4: Management of Companies – Appointment, removal, qualification, fixation of remuneration, rights, responsibilities and liabilities of directors, Managing director, whole time director, Auditor & Manager and Secretarial duties relating to thereto.

Unit 5: Company Meeting and Secretarial Duties – Meaning, nature and significance of Company meetings: Classification of Company meetings-statutory, board, annual, Extra ordinary meetings. Meeting Procedures – notice, agenda, venue, time, duration, quorum, adjournment & minutes of Company meeting.

MADURAI KAMARAJAR UNIVERSITY

Secretarial Practice

Unit I: Introduction – Meaning of secretary – Types – Definition of Company Secretary – Legal position – Qualification – Appointment – Rights, duties and liabilities – Dismissal of company secretary.

Unit II: Company Management: Introduction – Directors – Qualification – Disqualification – Appointment – Vacation – Removal – Powers, Duties and Liabilities of Directors – Managing Director – Appointment – Disqualification – Managers.

Unit III: Share Capital – Meaning – Kinds – Alteration of capital – Reduction of capital – Secretarial procedure for reduction of capital – Rights shares – Guidelines for the issue of fresh capital – Secretary's duties in connection with issue of shares – Bonus shares – Guidelines – Secretarial duties.

Unit IV: Dividend, Accounts and Audit – Dividend – Definition – Rules regarding dividend – Secretarial procedure regarding payment of dividend – Statutory Books – Books of Accounts – Secretarial duties – Auditor – Qualifications – Appointment – Rights, Duties and Powers.

Unit V: Winding Up – Meaning – Modes of winding up – Compulsory winding up – Voluntary winding up – Winding up subject to the supervision of the court – Duties of Secretary in respect of winding up.

OSMANIA UNIVERSITY

B.Com., (CBCS) Faculty of Commerce, O.U. 15 BC 604

Company Law (2013 Act) Paper: BC604

Unit I: Incorporation of Companies: Company: Meaning and Definition – Characteristics – Classification – Legislation on Companies – Incorporation – Promotion – Registration – Memorandum of Association – Articles of Association – Certificate of Incorporation – Prospectus – Statement in lieu of Prospectus – Commencement of business.

Unit II: Management of Companies: Director: Qualification – Disqualification – Position – Appointment – Removal – Duties and Liabilities – Loans – Remuneration – Managing Director – Corporate Social Responsibility – Corporate Governance.

Unit III: Company Secretary: Company Secretary: Definition – Appointment – Duties – Liabilities – Company Secretary in Practice – Secretarial Audit.

Unit IV: Company Meetings: Meeting: Meaning – Requisites – Notice – Proxy – Agenda – Quorum – Resolutions – Minutes – Kinds – Shareholder Meetings - Statutory Meeting – Annual General Body Meeting – Extraordinary General Body Meeting – Board Meetings.

Unit V: Winding Up: Meaning – Modes of Winding Up – Winding Up by tribunal – Voluntary Winding Up – Compulsory Winding Up – Consequences of Winding Up – Removal of name of the company from Registrar of Companies – Insolvency and Bankruptcy Code – 2016.

TIRUVALLUVAR UNIVERSITY

B.Com. (Corporate Secretaryship): Syllabus (CBCS) Semester III PAPER – 5

Company Law and Secretarial Practice – 1

Unit I: Introduction – Definition of Company – Characteristic – Advantages – Lifting of the Corporate veil – Kinds of Company – The Companies Act, 1956 (Overview) – The Company Secretaries Act, 1980 (Overview).

Unit II: Secretary – Definition – Types of Secretaries – Company Secretary – Legal Position – Qualification – Appointment of Rights, Duties and Liabilities – Dismissal of Company Secretary.

Unit III: Formation of Company – Incorporation – Documents to be filled with Registrar – Certificate of Incorporation – Effects of Registration – Promoter – Preliminary Contracts – Duties of Secretary at the Promotion stage.

Unit IV: Memorandum of Association – Articles of Association – Contents – Alteration – Secretary's Duties – Prospectus – Contents.

Unit V: Share Capital – Meaning Kinds – Alteration of Capital – Reduction of Capital – Secretarial procedure for reduction of Capital – Guidelines for the issue of fresh capital – Secretary's duties in connection with issue of shares.

B.Com. (Corporate Secretaryship): Syllabus (CBCS) Semester IV, Paper – 7

Company Law and Secretarial Practice – II

Unit I: Borrowing Powers: Meaning – Ultra Virus Borrowing – Mortgages and Charges – Fixed and Floating Charges – Registration of Charges – Legal Provisions – Effects and Consequences of Non registration of Charge – Debentures – Definition – Kinds – Guidelines for the issue of debentures – Duties of a Secretary – Comparison between a Shareholder and a Debenture Holder.

Unit II: Company Management: Introduction – Directors – Qualification – Disqualification – Appointment – Vacation – Removal – Specific powers of Directors – Duties of Directors – Liabilities of Directors.

Unit III: Meetings and Procedures: Introduction – Kinds of Meetings – Meetings of Share Holders – Statutory Meeting – Annual General Meetings – Extra Ordinary General Meeting – Class Meetings – Board Meetings – Secretarial Work Relating to Meetings – Motions and Resolutions – Types of Resolutions – Agenda – Minutes – Voting and Poll – Proxy – Quorum – Chairman of Meeting – Duties of Secretary.

Unit IV: Dividend: Definition – Rules regarding Dividends – Secretarial procedure regarding payment of Dividends – Accounts – Statutory Books – Books of Accounts – Annual Accounts and Balance Sheet – Secretarial Duties.

UNIVERSITY OF MADRAS

Core Paper VI

Company Law and Secretarial Practice [From 2020 onwards]

Unit I: Incorporation of Company and Role of Company Secretary – Evolution of Company law – Meaning and characteristics of a company – Stages of incorporation – e-filing – Memorandum of Association and Articles of Association – Alteration – Effects of registration – Doctrine of constructive notice – Ultravires and indoor management – Lifting of Corporate veil. Role and importance of Company Secretary – Key Managerial Personnel – Compliance officer – Compulsory Appointment – Qualification and disqualifications – Powers, duties and responsibilities of Secretary – Resignation and removal of Company Secretary – Officer in default.

Unit II: Prospectus & Sharecapital – Prospectus – Shelf Prospectus – Red herring Prospectus – Civil & Criminal liability for misstatement in Prospectus – Statement in lieu of Prospectus - Secretarial duties in the issue of Prospectus. Share capital – Alteration of Share capital – Rights issue, Bonus issue, Private and preferential allotment – Dividend, interim dividends, warrants and mandates – Secretarial duties in the issue of share capital.

Unit III: Members and Shareholders Members – Rights and responsibilities – Who can be a member – Member, shareholder, contributory – Difference – Transfer and transmission of shares (including depository mode) – Nomination and its importance.

Unit IV: Key Managerial Personnel and Meetings – Directors – Women Director – Independent Director and Whole time Key Managerial Personnel – Director Identification Number and its significance – Duties, qualification and disqualification. Board meeting, shareholder meeting, committee meeting, mandatory committee meeting – Role and composition – Powers of the board – Notice, Agenda, minutes and resolution – Secretarial duties in meetings.

Unit V: Winding Up – Modes of Winding up – Winding up by the tribunal – Voluntary Winding up – NCLT – Special courts – Mediation and Conciliation panel.

SRI VENKATESWARA UNIVERSITY

B.Com.

Company Law and Secretarial Practice I

Unit I: Company – Definition – Characteristics – Kinds of companies – Doctrine of Lifting the veil-Promotion of a company – Company secretary – Appointment, legal position – Qualification – Duties and liabilities of a secretary.

Unit II: Memorandum of association – Forms – Contents – Procedures for alteration secretarial duties – Articles of association – Forms and contents – Procedures for alteration the Doctrine of Indoor management – Distinguish between memorandum and articles.

Unit III: Prospectus – Contents – Statement in lieu of prospectus – Legal formalities – Secretarial duties with regard to prospectus.

Unit IV: Share Capital – Kinds of capital – Alteration – Production – Issue and allotment of shares-book building scheme – Share certificate – Transfer and transmission of shares – E-filing – Secretarial duties.

Unit V: Borrowing powers – Methods of borrowing – Mortgages and charges – Registration of charges – Legal provisions – Secretarial duties with regard to borrowing.

B.Com.

Company Law and Secretarial Practice – II

Unit I: Company Meeting – Kinds of meetings – Requisites of a valid meeting – Agende – Minutes – Quorum – Proxy – Voting – Poll – Motion and resolution – Secretarial duties in connection with meetings.

Unit II: Directors – Appointment – Qualification – Removal – Casual vacancy – Powers, duties, liabilities – Managing director – Appointment – Rights and duties – Secretarial duties.

Unit III: Books of Accounts and Registers – Inspections – Annual returns – Circulation and filing – Directors report – Chairman’s speech – Appointment of auditors – Qualification of auditors – Auditors report – Removable of auditors – Secretarial duties.

Unit IV: Dividend – Definition – Statutory provision – Power of board of directors regarding dividend – Interim dividend – Unclaimed dividend – Dividend warrant – Payment of interest out of capital – Secretarial duties in connection with dividend.

Unit V: Winding up – Meaning – Modes of winding up – Petitions for winding up – Consequences of winding up – Appointment of official liquidator – Duties of secretary in respect of each winding up.

Contents

Part I

1. Classification and Conversion of Companies	I-3
Enactment of Companies Act, 2013	I-3
Mode of Formation of a Company	I-4
Classification of Companies	I-5
Chartered Companies	I-5
Statutory Companies	I-5
Registered Companies	I-5
Classification on the Basis of Number of Members	I-5
Private Company – Section 2(68)	I-5
Public Company – Section 2(71)	I-5
Classification on the Basis of Liability	I-6
Limited Liability	I-6
Companies Limited by Guarantee – Section 2(21)	I-6
Companies Limited by Shares – Section 2(22)	I-6
Unlimited Company – Section 2(92)	I-6
Classification on the Basis of Ownership	I-7
1. Government Company – Section 2(45)	I-7
2. Non-Government Company	I-7
Audit and Annual Reports to be placed before Parliament and / or State Legislature	I-7
One Person Company – Section 2(62)	I-7
Associate Company – Section 2(6)	I-8
Total Voting Power	I-8
Small Company – Section 2(85)	I-9
Dormant Company	I-9
Foreign Companies – Section 2(42)	I-9
Investment Companies [Section 186]	I-10
Public Financial Institution – Section 2(72)	I-10
Holding Company and Subsidiary Company	I-11
Producer Companies	I-11
Conversion of Companies	I-12
Conversion of One Person Company into a Public Company or a Private Company – Procedural Aspects	I-12

Procedure for Conversion of Private Company into One Person Company	I-13
Review of Criteria for One Person Company	I-13
Procedure for Conversion of a Private Company into a Public Company	I-14
Conversion of Companies already Registered [Section 18]	I-14
Adoption of New Set of Articles for Public Company	I-14
Scrutiny of Documents by ROC	I-15
Procedural Aspects after the Conversion into a Public Company	I-15
Model Resolution	I-16
Conversion of a Public Company into a Private Company	I-16
Filing of Form MGT-14	I-17
Application to be filed with Regional Director	I-17
Filing of forms with ROC	I-18
Publication of Advertisement	I-18
Submission of Further Information as Demanded by Regional Director	I-18
Approval of Application in the Absence of Objections	I-19
Submission of Copy of Objection with Regional Director	I-19
Final Order of Approval by Regional Director Permitting Conversion into a Private Company	I-19
Filing of Forms with Registrar of Companies	I-19
Secretarial Procedure after the Conversion of Public Company into Private Company	I-19
License Under Section 8 for New Companies with Charitable Objects etc.	I-20
Conditions for Conversion of a Company Registered under	
Section 8 into a Company of any other Kind	I-20
Other Conditions to be Complied with by Companies Registered under	
Section 8 Seeking Conversion into any other Kind	I-21
Intimation to Registrar of Revocation of Licence Issued under Section 8	I-22
Declaration at the Time of Commencement of Business	I-22
Verification of Registered Office	I-23
Publication of Name by Company	I-23
Notice and Verification of Change of Situation of the Registered Office	I-23
Review Questions	I-23
Part A	I-23
Part B	I-24
2. Company Promotion and Incorporation	I-25
Company Promotion	I-25
Persons who are Treated as Promoters	I-25
Role of Promoters	I-25
The Memorandum of Association [MOA]	I-26
Format of Memorandum of Association	I-26
Change of Name of a Company — Secretarial Procedure	I-27
Changing the Object Clause of the Company – Secretarial Procedure	I-28
Change of Registered Office of the Company – Secretarial Procedure	I-29
Approvals Required for Change of Registered Office Within the Same	
State but with a Different ROC	I-30
Change of Registered Office From One State to Another State	I-30
Documents to be Attached for Change of Registered Office to Another State	I-31

Articles of Association	I-31
Registration of Articles	I-31
Contents of Articles of Association	I-31
Alteration of Articles of Association	I-32
Alteration of Articles to be filed with Registrar	I-33
Incorporation of a Company	I-33
1. Name Availability for Proposed Company	I-33
2. Obtain Director Identification Number [Section 153]	I-33
3. Obtain Digital Signatures	I-34
Application for Incorporation of a Private Company	I-34
Particulars about Corporate Identification Number	I-35
Description of 21 digits CIN	I-35
Filing of Documents with Register of Companies for Company Incorporation	I-36
Declaration by Professionals	I-36
Self-declaration from First Subscribers and First Directors	I-36
Detailed Particulars of Every Subscriber to be Filed with the Registrar at the Time of Incorporation	I-37
Declaration at the Time of Commencement of Business	I-38
Review Questions	I-38
Part A	I-38
Part B	I-38
3. Formation of Companies	I-39
Prospectus	I-39
Definition and Meaning of Prospectus	I-39
Contents of Prospectus	I-39
Types of Prospectus	I-45
Offer for Sale	I-45
Offer of Sale of Shares by Certain Members of a Company	I-46
Advertisement of Prospectus	I-46
Period for which Information to be Provided in Certain Cases	I-46
Allotment of Securities	I-48
Private Placement	I-49
Certain Restrictions on the Private Placement	I-50
Review Questions	I-51
Part A	I-51
Part B	I-51
4. Share Capital	I-52
Share Capital – Types	I-52
Capital is Indispensable for Carrying on Business	I-52
Classes of Capital	I-52
Nominal or Authorised Capital	I-53
Issued Capital	I-53
Subscribed Capital	I-53
Called-up Capital	I-53

Paid-up Capital	I-53
Uncalled Capital	I-53
Reserve Capital	I-54
Definition of Share	I-54
Meaning of Stock	I-54
Distinction between Share and Stock	I-54
Types of Shares	I-54
1. Equity Shares or Ordinary Shares	I-55
2. Preference Shares	I-55
Kinds of Preference Shares	I-55
Share Certificate	I-55
Meaning of Share Certificate	I-55
Maintenance of Share Certificate Forms and Related Books and Documents	I-56
Issue of Duplicate Share Certificate	I-56
Manner of issuing share certificates / Duplicate Share Certificates	I-56
Equity Shares with Differential Voting Rights	I-57
Conditions for Issuing Shares with Differential Rights	I-57
Disclosures in the Explanatory Statement to the Notice of the Meeting	I-58
Issue and Redemption of Preference Shares	I-58
Exceptions	I-58
Conditions	I-59
Resolution Authorising Preference Shares to set out Certain Particulars	I-59
Explanatory Statement to Special Resolution to Set out Certain Particulars	I-60
Issue and Redemption of Preference Shares	
[Section 62 read with Rule 13 of Companies (Shares and Debentures) Rules, 2014]	I-61
Sweat Equity Shares [Section 54]	I-62
Issue of Sweat Equity Shares to Promoters	I-62
Conditions for Issue of Sweat Equity Shares	I-62
Certificate from the Auditor for Issue of Sweat Equity	I-63
Issue of Securities at a Premium	I-63
Meaning of Share Premium	I-63
Classes of Companies Allowed by SEBI to make their Issues at a Premium	I-64
Employee Stock Option Scheme	I-64
Procedure for Issue of Securities to Employees through	
“Employees Stock Option Scheme”	I-65
Secretarial Procedure before Allotment	I-67
General Principles of Allotment	I-67
Allotment of Shares	I-67
Pre-conditions of Allotment	I-68
Procedure of Allotment	I-68
Partial Allotment	I-69
Adjustment of Excess Application Money	I-69
Letter of Allotment / Regret	I-69
Revocation of Share Application	I-70
Splitting of Allotment	I-70

Recording Allotment Moneys	I-70
Contents of Return as to Allotment	I-71
Return of Allotment with Other Documents	I-71
Review Questions	I-72
Part A	I-72
Part B	I-72
5. Share Capital – Issue of Shares	I-74
Issues of Capital and Disclosure Requirements [ICDR] Rules	I-74
Companies (Share Capital and Debentures) Rules, 2014	I-74
SEBI [ICDR] Regulations 2018	I-74
General Conditions Regarding Making an IPO	I-75
Additional Conditions	I-75
Additional Conditions	I-75
Issue of Warrants	I-75
Filing of Offer Document	I-76
Minimum Subscription [Regulations 45 & 141]	I-76
Period of Subscription [Regulations 46 & 142]	I-77
Allotment Procedure and Basis of Allotment [Regulations 49 & 145]	I-77
Post-issue reports [Regulations 55 & 151]	I-78
Minimum Promoter’s Contribution	I-78
Minimum Offer to Public and Reservations	I-78
Steps Involved in Public Issue of Shares	I-79
No Provision of Money by Company for Purchase of its Own Shares by Employees or by Trustees for the Benefit of Employees	I-81
Buy-back Regulations [Section 68]	I-82
Conditions for Buy-Back Pursuant to Section 68(2) of the Companies Act, 2013	I-83
Additional Conditions for Buy-back of Shares or Other Securities	I-83
Additional Disclosures	I-83
Buy-back of Shares or Other Securities by Private Companies and Unlisted Public Companies	I-84
Transfer of Shares and Transmission of Shares	I-86
(A) Transfer of Securities	I-86
(B) Transmission of Securities	I-87
Nomination by Securities Holders	I-87
Dematerialisation of Shares	I-88
Procedure for Dematerialisation of Shares by the Company	I-88
Transfer of Dematerialised Shares	I-89
Companies not to be Considered as Listed Companies	I-89
Review Questions	I-90
Part A	I-90
Part B	I-90
6. Alteration of Capital	I-91
Modes of Alteration of Capital	I-91
Authorized Capital	I-91

Powers of a Limited Company to Alter its Share Capital	I-91
Procedure for Altering the Share Capital	I-92
Filing of Form SH-7 with Registrar of Companies	I-92
Reduction of Share Capital (Section 66)	I-93
Further issue of share capital [Section 62]	I-94
Meaning of Further Issue of Shares or Rights Shares	I-94
Conditions for Issue of Rights Shares	I-95
Secretarial Procedure for Rights Issue	I-95
Bonus Shares [Section 63]	I-96
Checklist Before Issue of Bonus Shares	I-97
Secretarial Procedure for Issue of Bonus Shares	I-97
Review Questions	I-98
Part A	I-98
Part B	I-98
7. Debentures	I-99
Debentures – Kinds, Issue and Redemption	I-99
Definition of Debenture	I-99
Statutory Provisions Governing Debentures	I-99
Features of Debentures	I-100
Kinds of Debentures	I-100
Convertible Debentures	I-100
Conditions to be Satisfied for Issue of Secured Debentures by a Company	I-101
Private Placement of Debentures by a Private Company	I-101
Redemption of Debentures	I-103
Appointment and Functions of Debenture Trustees	I-104
Review Questions	I-106
Part A	I-106
Part B	I-106
8. Company Director – Appointment, Duties & Powers	I-107
Director	I-107
Who may be the Directors?	I-107
Minimum Number	I-107
Maximum Number	I-107
Class of Directors	I-108
First Director	I-108
Woman Director	I-108
Independent Director	I-108
Qualifications	I-109
Procedure for Appointment of Independent Director	I-109
Role and Functions of Independent Director	I-110
Duties of Independent Director	I-110
Small Shareholders' Director	I-111
Procedure for Appointment of Small Shareholders' Director	I-111
Director Identification Number	I-112

Appointment of Directors	I-112
Appointment of Additional Director	I-113
Appointment of Alternate Director	I-113
Appointment of Nominee Director	I-113
Filling up Casual Vacancy	I-113
Appointment of Directors to be Voted Individually	I-113
Proportional Representation for Appointment of Directors	I-114
Removal of a Director	I-114
Procedure for Removal of a Director	I-114
Review Questions	I-114
Part A	I-114
Part B	I-115
9. Distribution of Profits – Dividend	I-116
Declaration and Payment of Dividends	I-116
Dividend and Interest	I-116
Declaration of Dividend	I-117
Source of Dividend	I-117
Conditions to be Complied with before Dividend Declaration	I-117
Transfer Portion of Profits to Reserves	I-117
Depreciation	I-117
Articles of Association	I-117
Types of Dividend	I-118
Dividend on Preference Shares	I-118
Dividend Warrant	I-118
Dividend out of Free Reserves	I-118
Payment of Dividend	I-119
Prohibition to Declare Dividend	I-119
Right to Dividend in Abeyance	I-119
Dividend for Beneficiaries	I-119
Punishment for Failure to Distribute Dividends	I-119
Defence	I-120
Unpaid Dividend Amount	I-120
Statement of Unpaid Dividend Amount	I-120
Interest for Default	I-120
Claim of Dividend	I-120
Transfer to Investor Education and Protection Fund	I-121
Transfer of Shares	I-121
Punishment	I-121
Investor Education and Protection Fund	I-121
Source of Fund	I-121
Utilization of Fund	I-122
Authority for the Fund	I-122
Claim from the Fund	I-123
Check List Regarding Declaration and Payment of Dividend	I-123
Procedure for Declaration and Payment of Interim Dividend	I-123

Procedure for Declaration and Payment of Final Dividend	I-125
Procedure for Transfer of Unpaid or Unclaimed Dividend to the Investor Education and Protection Fund	I-127
Review Questions	I-128
Part A	I-128
Part B	I-128
10. Company Secretary and Company Secretary in Practice	I-129
Company Secretary – Appointment – Functions – Duties – Rights and Powers – Role	I-129
Need for a Secretary	I-129
Types of Secretaries	I-129
Company Secretary	I-130
Definition	I-130
Appointment of Company Secretary	I-130
Company Secretary as a Key Managerial Person	I-130
Exemption to Section 8 Companies	I-131
Important Points to be Considered Regarding Appointment of a Company Secretary	I-131
Procedure for Appointing a Whole Time Company Secretary	I-132
Penalty for Not Appointing CS when Mandatory	I-133
Functions of Company Secretary	I-133
Duties of Company Secretary as Prescribed in Rule 10 of Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014	I-133
Duties/Responsibilities of Company Secretary	I-134
Rights of Company Secretary	I-134
Powers of the Company Secretary	I-134
Restrictions on Powers	I-135
Role of Company Secretary	I-135
A. As a Statutory Officer	I-135
B. Secretary as Compliance Officer of Listed Company	I-136
C. Coordinator as Internal Role Towards Board of Directors	I-136
D. Secretary as a Chief Administrative Officer	I-137
E. Secretary as a Public Relation Officer	I-137
F. As a Legal Advisor of the Company	I-137
G. Custodian of the Properties of Companies	I-138
H. Company Secretary as a Governance Professional	I-138
Removal of a Company Secretary	I-138
Secretarial Procedure for Removal / Resignation of a Company Secretary	I-138
Company Secretary in Practice	I-139
Designation to be used by Members in Practice	I-139
Register of Members	I-140
Certificate of Membership [Regulation 9]	I-140
Certificate of Practice [Regulation 10]	I-140
Areas of Practice	I-140
Categories of Services Specified by the Council under Section 2(2)(f) of Companies Secretaries Act, 1980	I-141

Review Questions	I-143
Part A	I-143
Part B	I-143
11. Company Meetings – Law and Practice	I-144
Company Meetings	I-144
Need for Conducting Meetings	I-144
Secretarial Standard on General Meetings	I-145
Classification of Company Meetings	I-145
1. Meetings of Members	I-145
2. Class Meetings	I-145
3. Meetings of Directors and their Committees	I-146
Essentials of a Valid Meeting	I-146
Proper Authority to Convene a Meeting	I-146
Notice of Meetings	I-147
Quorum	I-149
Public Company	I-150
Private Company	I-150
Agenda	I-151
Chairman of a Meeting (Section 104)	I-151
Motions, Resolutions and Amendments	I-152
Motion	I-152
Resolution	I-152
Amendment	I-153
Point of Order	I-153
Difference between Adjournment and Postponement of Meeting	I-153
Dissolution of Meeting	I-153
Methods of Voting	I-153
Procedure to be Followed for Conducting Business through Postal Ballot	I-155
Minutes	I-157
Review Questions	I-158
Part A	I-158
Part B	I-158
12. Company Meetings – General Meetings	I-159
Annual General Meeting [AGM] (Section 96)	I-159
Proxy	I-162
Annual Report of Directors	I-163
Report on Annual General Meeting	I-164
Resolutions requiring Special Notice	I-164
Resolutions and Agreements to be filed with the Registrar	I-165
Secretarial duties regarding conducting of Annual General Meeting	I-166
(A) Duties before the Conduct of AGM	I-166
(B) Secretarial Duties at the Meeting	I-166
(C) Secretarial Duties after the Meeting	I-166

Specimen Notice in Newspapers of Annual General Meeting	I-169
Specimen Notice of Postponed Annual General Meeting	I-170
Extraordinary General Meeting [EGM]	I-171
Under what Circumstances an Extraordinary General Meeting can be held?	I-171
Authority for convening Extraordinary General Meeting	I-171
Consequences on Failure of the Board to Convene the Requisitioned EGM	I-172
Eligible Persons to whom Notice calling EGM shall be given	I-172
Secretarial Duties Regarding Extraordinary General Meeting	I-174
Duties before the Convening of Meeting	I-174
During the Meeting	I-175
After the Meeting	I-175
Specimen Notice by Requisitionists Convening an Extraordinary General Meeting	I-176
Specimen Board Resolution for convening Extraordinary General Meeting on Requisition	I-176
Review Questions	I-177
Part A	I-177
Part B	I-178
13. Company Meetings – Board Meetings	I-179
Meetings of Directors / Board Meeting	I-179
Committee Meeting	I-179
Mode of Participation/ Manner of Conducting Meeting	I-179
Matters that Cannot be Dealt with in any Meeting through Video Conferencing/other Audio Visual Means	I-180
Authority to Convene Board Meetings	I-180
Chairman of Board Meetings	I-180
First Board Meeting	I-180
Preparation of Agenda in Connection with First Board Meeting	I-181
Preparations for Board Meetings	I-181
Number of Meetings	I-181
Notice of Board Meeting	I-182
Time and Place of Board Meetings	I-182
Quorum for meetings of Board (Section 174)	I-182
Voting by Directors	I-183
Resolution by Circulation	I-184
Procedure for Passing of Resolution by Circulation	I-184
Validity of Acts of Directors or the Board/Defects in Appointment of Directors not to Invalidate Action Taken	I-184
Meetings of Board through Video Conferencing or Other Audio Visual Means	I-185
Preliminary Steps to be taken before the Meeting	I-185
Notice	I-186
At the meeting	I-186
Quorum	I-186
Venue and Time	I-187
Registers Requiring Signature of Directors	I-187

Obligation of Participants	I-187
Vote	I-187
No Access without the Permission of the Board	I-187
Minutes of Board Meetings	I-187
Secretarial Duties Regarding Conducting of Board Meetings	I-188
I. Duties of Secretary before the Meeting	I-189
II. Duties during the Meeting	I-189
III. After the Meeting	I-190
Practical Aspects in Board Meeting	I-190
Review Questions	I-196
Part A	I-196
Part B	I-196
14. Resolutions and Minutes	I-197
Resolutions	I-197
Meaning	I-197
Kinds of Resolutions (Section 114)	I-197
Matters requiring Special Notice	I-199
Resolutions Passed at Adjourned Meeting (Section 116)	I-199
Registration of certain Resolution and Agreements (Section 117)	I-199
Passing of Resolution by Circulation	I-200
Secretarial Procedure for Passing of Resolution by Circulation	I-200
Minutes of proceedings of general meeting,	
Board meeting and other Meeting and Resolutions Passed by Postal Ballot (Section 118)	I-201
Secretarial Practice Regarding Minutes	I-201
Penal Provisions	I-202
Inspection of Minute Book of General Meeting (Section 119)	I-202
Penalty Provision	I-202
Maintenance and Inspection of Documents in Electronic Form (Section 120)	I-202
Reports	I-202
Statutory Reports	I-203
Non-statutory Reports	I-203
Secretarial Duties in Connection with Drafting and Issue of Notices of Company Meetings	I-203
Secretarial Duties in Connection with Drafting of Resolutions of Company Meetings	I-204
Specimen of Resolutions	I-205
Review Questions	I-207
Part A	I-207
Part B	I-207
15. Statutory Books and Returns	I-208
(A) Statutory Books	I-208
List of Statutory Registers	I-208
List of Non-statutory Registers	I-209
1. Register of Members	I-209

2. Register and Index of Debenture Holders	I-210
3. Foreign Register	I-210
4. Registers of Charges	I-211
5. Registers of Investments not held in Company's Name	I-211
6. Registers of Directors and Key Managerial Personnel (KMP)	I-211
7. Registers of Contracts and Arrangements in Which Directors are Interested	I-212
8. Register of Loans & Guarantee	I-212
9. Books of Accounts and Annual Accounts	I-212
10. Register of Sweat Equity Shares	I-213
11. Register of Employee Stock Option	I-213
12. Registers of Securities Bought Back	I-214
13. Register of Deposits	I-214
14. Register of Renewed and Duplicate Share Certificates	I-214
15. Minutes	I-214
(B) Returns Filed with Registrar	I-215
1. Annual Return	I-215
Certification of Annual Return [Section 92(2) and Rule 11(2) of Companies (Management and Administration) Rules, 2014]	I-216
2. Return as to Alteration of capital	I-217
3. Return of Allotment	I-217
4. Return of Directors	I-217
5. Return of Charges	I-218
6. Return of Foreign Companies	I-218
7. Return of Changes in Shareholding Position of Promoters and Top Ten Shareholders	I-219
Review Questions	I-219
Part A	I-219
Part B	I-219

Part II – Knowledge Refresher Series

1. Quiz on Company Secretarial Practice	II-3
Quiz No. 1	II-3
Quiz No. 2	II-3
Quiz No. 3	II-3
Quiz No. 4	II-4
Quiz No. 5	II-4
Quiz No. 6	II-4
Quiz No. 7	II-5
Quiz No. 8	II-5
Quiz No. 9	II-5
Quiz No. 10	II-5
2. Model Question Paper and Past Years Question Papers	II-7
3. Past Years Question Papers of Other Universities	II-16

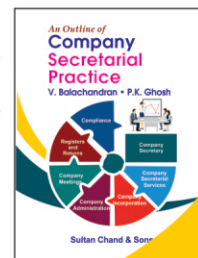
Part III – Annexures

Annexure

I. Prescribed Forms under the Companies Act, 2013	III-3
List of Enumeration of Forms Prescribed Under Companies Rules, 2014	III-3
Complete Format of Forms Frequently used by Companies	III-7
II. Zero Fee for Incorporation of all Companies with Authorized Capital up to ₹ 15 Lakh	III-60
III. List of Important Rules for Implementation by Companies under the Companies Act, 2013	III-62
III. Matters Requiring Ordinary Resolution as per The Companies Act, 2013	III-64
Matters Requiring Special Resolution as per The Companies Act, 2013	III-66
Resolutions which Require Special Notice under Section 115 of the Companies Act, 2013	III-68
Fees For Filing Various Documents or for Registering any Fact Under Companies Act, 2013 (Except for Form No SH. 7)	III-69
Form No. SH 7 For Increasing Authorised Capital	III-69
Fee on Applications (including Appeal) made to Central Government	III-69
Additional Fees For Late Filing of Document	III-70
Table of Fees to be Paid to the Registrar	III-71
I. Fee for filings etc. under section 403 of the Companies Act, 2013	III-71
II. Fee on Applications (including Appeal) made to Central Government under sub-section (2) of Section 459 of the Companies Act, 2013	III-76
III. Annual Fee Payable by a Dormant Company under Sub-section (5) of Section 455 of the Companies Act, 2013	III-77
IV. Fee for Inspection and Providing Certified Copies of Documents Kept by the Registrar under Section 399 of the Act	III-77
V. Fee for Registration of Documents under Section 385 of the Act	III-77
VI. Fees for Removal of Names of Companies from the Registrar of Companies under Section 248 (2) of the Act	III-77
VII. Fee for Filing e-Form DIR-3 KYC or DIR-3 KYC-WEB under rule 12A of the Companies (Appointment and Qualification of Directors) Rules, 2014	III-77
VIII. Fee for Filing e-Form Active under rule 25A of the Companies (incorporation) Rules, 2014	III-77
Instructions	III-78
Bibliography	III-79
Books	III-79

DISTINCTIVE FEATURES OF THE BOOK OVER OTHER BOOKS

- Efforts to cover the syllabi at all India level and is written in a simple and lucid style to be understood by a common man.
- Incorporated at the appropriate places in the book, the amendments made in the Companies Act, 2013.
- At the end of every chapter adequate questions for Part A and Part B are given.
- Past years question papers of some of the Universities are also included in the book.
- Included 10 MODEL Question papers for the Faculty and Students community
- Incorporated important statutory Forms under Companies Act, 2013
- Quiz in Company Secretarial Practice which would be highly useful to the students appearing for examinations and interviews
- To get practical knowledge, (a) specimen notices, agenda, minutes and resolutions have been incorporated at the appropriate places in the book; (b) Documents / Forms to be filed with the Registrar of Companies under Companies Act, 2013; (c) Fees For Filing Various Documents or For Registering any Fact Under Companies Act, 2013; (d) List of New Forms Prescribed Under Companies Rules, 2014.



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