

LL.B IV SEMESTER

SUBJECT- COMPANY LAW

TOPIC- MEMBERSHIP OF COMPANY

MEMBERSHIP IN A COMPANY

The term “Member” in relation to a company means, one who has agreed to become the member of the company by entering his name into the ‘Register of Members’. Every person who has agreed in writing to become a part of the company and also holds shares of the company is considered the ‘Member of the Company’ and is said to hold membership in a company. The name of the member of the company is entered as ‘Beneficial owner in the record of depository’.

In order to acquire the membership of the company, the following two elements must be presented:

- An Agreement to become a member.
- Entry of the name of the person so agreeing, in the Register of members of the company.

The enlisted person should be in a capable of entering into a contract with the company. But a bearer of share warrant is not a member of the company. Finally, to become the registered member of the company the person should be satisfactory as an asset to the company.

MODES OF ACQUIRING THE MEMBERSHIP

A person may become a member or shareholder of the company in any one of the following ways:

1. By subscribing to the Memorandum of Association: The subscriber to the Memorandum of a company are deemed to have agreed to become a member of the company and on the registration of the company their names are entered as members on the register of members

2. By agreeing to take qualification Shares: According to the section 266 directors of the company on delivering to registrar a written undertaking to take their qualification shares and to pay for them become the members of the company and they are in same position as if they were subscribers to the Memorandum.

3. By transfer of shares: Shares in a company are movable property and are transferable in the same way as provided in the Articles of the company. Thus one person possesses the right to transfer his shares to another person. On the registration of transfer the transferee becomes the member of the company.

4. By application and allotment of shares: A person may become a member of a company by an application for shares to the formal acceptance by the company. On valid allotment, the name of the shareholder is entered in the register of members

5. By succession: On the basis of the succession certificate the legal heirs of the deceased member/shareholder get the right to be a member of the company. The company on this basis enters their name in the register of members.

6. By estoppel or acquiescence: A person who knowingly permits entering his name in the register of members, becomes a member by estoppel or acquiescence.

TERMINATION OF MEMBERSHIP IN COMPANY

Termination of the membership can take place in two ways:

1. Voluntary termination (by act of the parties)

2. Compulsory termination (by operation of law)

1. Voluntary/by act of the parties termination: A person ceases to be a member of a company by doing the following act:

- By transfer of shares
- By forfeiture of shares
- By surrender of shares
- By exercising lien by the company.
- By issue of share warrants
- By redemption of shares
- By the buy back of shares by the company
- By irregularity in allotment
- By repudiating the contract on the ground of false or misleading statement in the prospectus of the company.

2. Compulsory/By operation of law termination: A person ceases to be a member by operation of law in the following cases:

- By termination of shares
- By insolvency of the person
- By the order of court on acquiring shares
- On winding up of a company
- On the death of the person