

4 chapter

Companies Act 1965

Introduction to Business DBB 1213

Instructor Lecture PowerPoints

Companies Act 1965

- The Companies Act 1965 (Akta Syarikat 1965) is a Malaysian Law which relates to companies.
- It is being enacted by Dewan Rakyat and is being used throughout Malaysia.
- This act consists of 12 Parts containing 374 sections.



Component Company act 1965

- Part I: Preliminary
- Part II: Administration of Act
- Part III: Constitution of Companies
 - Division 1: Incorporation
 - Division 2: Powers
- Part IV: Shares, Debentures and Charges
 - Division 1: Prospectuses
 - Division 2: Restrictions on Allotment and Commencement of Business
 - Division 3: Shares
 - Division 3A: Substantial Shareholdings
 - Division 4: Debentures
 - Division 5: Interests other than Shares, Debentures, etc.
 - Division 6: Title and Transfers
 - Division 6A: Provisions Applicable to Companies whose Securities are Deposited with the Central Depository
 - Division 7: Registration of Charges
- Part V: Management and Administration
 - Division 1: Office and Name
 - Division 2: Directors and Officers
 - Division 3: Meetings and Proceedings
 - Division 4: Register of Members
 - Division 5: Annual Return
- Part VI: Accounts and Audit
 - Division 1: Accounts
 - Division 2: Audit
- Part VII: Arrangement and Reconstructions
- Part VIII: Receivers and Managers

- Part IX: Investigations
- Part X: Winding up
 - Division 1: Preliminary
 - Division 2: Winding up by the Court
 - Subdivision 1: General
 - Subdivision 2: Liquidators
 - Subdivision 3: Committees of Inspection
 - Subdivision 4: General Powers of Court
 - Division 3: Voluntary Winding up
 - Subdivision 1: Introductory
 - Subdivision 2: Provisions applicable only to Members' Voluntary Winding up
 - Subdivision 3: Provisions applicable only to Creditors' Voluntary Winding up
 - Subdivision 4: Provisions applicable to every Voluntary Winding up
 - Division 4: Provisions Applicable to Every Mode of Winding up
 - Subdivision 1: General
 - Subdivision 2: Proof and Ranking of Claims
 - Subdivision 3: Effect on other Transactions
 - Subdivision 4: Offences
 - Subdivision 5: Dissolution
 - Division 5: Winding up of Unregistered Companies
- Part XI: Various Types of Companies, etc.
 - Division 1: Investment Companies
 - Division 2: Foreign Companies
- Part XII: General
 - Division 1: Enforcement of Act
 - Division 2: Offences
 - Division 3: Miscellaneous

COMPANY: What is it? [Sec.3]

- Section 3 (1) (i) of the Act defines: “A company means a company formed and registered under this Act.”
- It is a form of business organization where the funds of the investors are managed by the corporate officer for the purpose of earning profits
- This profit will be shared by all the investors.



Essential Characteristics of a Company

According to Companies Act 1965, the essential characteristics of a company is as follows:

- Registration: Compulsory
- Separate legal entity: Distinct person
- Perpetual succession
- Transferable shares
- Limited liability
- Separate property: Can own property in its name.
- Capacity to sue and be sued

Types of Companies

- Private Company
- Public Company



Private Company [Section 3 (1)(i)]

According to Companies Act 1965, the following are the characteristics of a private company.

- (a) the name shall end with the word "*Sendirian Berhad*" or the abbreviation "*Sdn. Bhd*"
- (b) minimum number of members required is two
- (c) maximum number of members is fifty, excluding the past and present employee
- (d) restricts the right to transfer its shares
- (e) prohibits any invitation to the public to subscribe for any shares of the company
- (f) prohibits any acceptance of deposit from person other than the members of the company.

Examples of Private Company in Malaysia

1. Secret Recipe Cakes and Café Sdn Bhd
2. KRU Music Sdn Bhd
3. Rotiboy Bakeshoppe Sdn Bhd
4. Golden Screen Cinemas Sdn Bhd
5. GCH Retail (Malaysia) Sdn Bhd
6. Ramly Food Processing Sdn Bhd
7. Marrybrown Sdn Bhd



Public Company [Section 3(1)(iv)]

According to Companies Act 1965, the following are the characteristics of a public company.

- (a) the name shall end with the word “*Berhad*” or the abbreviation “*Bhd*”
- (b) minimum number of members required is seven
- (d) the shares are transferable and can be sold to the public
- (e) allow invitation to the public to subscribe for any shares of the company
- (f) allow acceptance of deposit from person other than the members of the company.

Examples of Public Company in Malaysia

1. AirAsia Berhad
2. RHB Bank Berhad
3. Astro Malaysia Holdings Berhad
4. Sime Darby Berhad
5. Malayan Banking Berhad
6. Telekom Malaysia Berhad
7. Maxis Berhad





Basic Differences between Public and Private Companies

1. Financial Reporting Standards

Public companies have to publicly disclose their financials and make it available for public access.

2. Maximum Number Of Shareholders

Private companies (sdn bhd) can only have a maximum of 50 shareholders whereas public companies (bhd) can have a lot of shareholders.



Basic Differences between Public and Private Companies

3. Publicly Available Shares

The public can freely subscribe to shares of public companies (bhd) through Bursa Malaysia.

Meanwhile, the individuals can only own shares in a private limited company through a shareholders of the private company shareholders' agreement with the approval of existing any.



Limited and Unlimited Liability

- In general, most company is said to have limited liability.
- Limited liability means the business owners' liability for debts is restricted to the amount they put into the business.
- With unlimited liability, the business owner is personally responsible for any loss the business make



Limited and Unlimited Liability

In Companies Act 1965, it is stated that a company (regardless private or public) can be either with limited liability or unlimited liability :

1. Limited liability
 - a) Limited by shares
 - b) Limited by guarantees
2. Unlimited liability



Companies Limited by Shares

- These types of companies have a share capital and the liability of each member or the company is limited to the extent of value of share subscribed by him.
- In other words, during the event of closing down a company, a member can be called upon to pay the amount remaining unpaid on the shares subscribed by him.
- Such a company is called company limited by shares.



Companies Limited by Guarantee

- Each member promises to pay a fixed sum of money that has been pre-agreed in the event of closing down of the company.
- This is for payment of the debts and liabilities of the company [Sec 13(3)]
- These members act as guarantors for the company
- Such a company is called a company limited by guarantee.



Companies with Unlimited Liability (Unlimited Companies)

- Section 12 in Companies Act 1965 gives choice to form a company with or without limited liability.
- A company not having any limit on the liability of its members is called an ‘unlimited company’ [Sec 12(c)].
- In the case of unlimited liability, all of its members are held responsible and liable for the debts of the company.



Companies with Unlimited Liability (Unlimited Companies)

Consider, for example, four individuals working as partners, and each invests \$35,000 into the new business they own jointly. Over a one-year period, the company accrues \$225,000 in liabilities. If the company cannot repay these debts, or if the company defaults on the debts, all four partners are equally liable for repayment. This means that in addition to the initial investment of \$35,000 that each partner made, all four owners would also be required to come up with \$56,250 to alleviate \$225,000 in debt.



Companies with Unlimited Liability (Unlimited Companies)

Unlimited companies are very uncommon due to severe burden placed on owners to cover a company's debt, specifically when the company faces liquidation.

However, one of the benefits of forming an unlimited companies is nondisclosure of financial performance to the public.



Impact of Corporation

- When a company becomes a corporation, it functions as a separate entity, meaning it takes on an identity of its own.
- Much like an individual person, as a separate entity a company can do many of the same things an owner can do, such as own property, enter into contract obligations and pay taxes.
- Instead of one or two people dictating how a company will run, a board of directors manages the affairs of a corporation.
- In turn, the company's stockholders become the actual owners of the company and they elect its



END OF CHAPTER 4