MEMORANDUM OF ASSOCIATION

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As per Section 2(56) of the Companies Act, 2013 “memorandum” means the memorandum of association of a company as originally framed or as altered from time to time in pursuance of any previous company law or of this Act.

DEFINITION OF MEMORANDUM
INTRODUCTION

• The memorandum of association contains the fundamental conditions upon which the company has been incorporated.

• The memorandum contains the objectives of which the company is formed.

• It defines the possible scope of its operations beyond which its actions cannot go.

• It defines the powers as well as confines the powers of the company.

• If anything is done beyond these powers, it will be considered to be ultra vires.
DEFINITIONS
Lord Cairns in the leading case of Ashbury Railway Carriage Co. V. Riche observed that “The Memorandum of Association of a company is its charter and defines the limitation of the powers of a company.” “The memorandum contains the fundamental conditions upon which alone the company is allowed to be incorporated.”

According to Lord Macmillan, “The purpose of the memorandum is to enable the shareholders, creditors and those who deal with the company, to know what is its permitted range of enterprise.”

According to Lord Selborne, “The memorandum of association is an important and unalterable (excluding a few conditions) charter. The company is incorporated only for such objects which are given in the Memorandum.”

Why is a Memorandum of Association necessary for a Company?
A memorandum of association allows people like the shareholders, creditors, investors and other members of a company to know the purpose for which a company has been formed.

It allows them to know the range of activities that the company is permitted to be involved in and authorises them to learn about the company’s objectives.
The memorandum of association also curbs the company’s flexibility by preventing it from getting involved in any kind of activities other than the ones mentioned in the memorandum while the company is in its initial stages of formation.
MOA- WHETHER AN UNALTERABLE CHARTER?
Until 1890, the MOA was regarded as an unalterable charter of the company. This led to a number of difficulties in the working of companies.

In the present times, the MOA can be altered from time to time, to meet the ever-changing demands of the times and generation. But an amendment in the MOA is not an easy process. It requires approval of the Central Government or the Registrar in changing any clause of the MOA.
ALL THE BEST.

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