

Company law

[Business](#), [Company](#)



Company Law

Business Entities: Company Law Topics covered

- Types of Company Formation of a company;
- Promoters Pre-Incorporation Contract

Memorandum and Articles of Association Inconsistency between the object and the company's activities Upon incorporation:

- Company is an artificial legal person
- Separate legal entity Lifting the corporate veil scs&ismk/company law
CONT
- Memorandum of Association & Articles of Directors' duties and liabilities association
- Common law & statutory
- Termination
- Limited Liability Winding up Doctrine of Ultra Vires Pre-Incorporation Contract

Directors' duties and liabilities scs&ismk/company law 3 In Malaysia, the law relating to companies are governed by the Companies Act 1965 (CA 1965).

scs&ismk/company law 4 The word company or corporation is defined under

s. 4(1) CA: Besides the CA 1965, other relevant legislations are the Capital Markets Act 2007, the Securities Commission Act 1993 and the Companies

Commission of Malaysia Act 2001. " company" means a company

incorporated pursuant to this Act or pursuant to any corresponding previous

enactment; Although company law in Malaysia is based mainly on CA 1965,

there are key areas of company law which are based on judicial precedents.

“ corporation” means any body corporate formed or incorporated or existing within Malaysia or outside Malaysia. A company or corporation is a legal association of people who combine to finance a business. s. 15(1) S. 14(2) S. 14(2) CA 196

Provides the classification of companies:

- Restricts the right to transfer shares;
- Limits the number of members to not more than 50;
- Prohibits any invitation to the public to subscribe to any of
- Type of companies the company's shares or debentures;
- Prohibits any invitation to the public to deposit money
- Limited by shares Limited by guarantee with the company Unlimited liability A public company is a company other than a private company refer

Particulars of directors and registered office; Declaration of compliance;

Statement of the allotment of shares of the Name of the company

Company's equity Company's liability Object of the company

s. 9 10 Each company must have its object. Alteration of the general provisions of the Memorandum of Association to the extent and manner provided by the CA - s. 21. The objects are stated in the Memorandum of Association. The company may, by special resolution, alter the memorandum by altering or by deleting, the provision, unless the memorandum itself prohibits the alteration or deletion of that provision - s.

21A. scs&ismk/company law components 8 3rd party who deals with the company may refer to the company's M&A which is deposited with CCM. Pay the registration fees scs&ismk/company law scs&ismk/company law.

- The purpose:
- To define and limit the activities of the company.
- If there is discrepancy between the object and its activities, thus such transaction is ultra vires and void.

CA, the company may alter the provision of its memorandum with respect to the objects of the company. If company's activities inconsistent with the object, Refer to Ashbury Railway Carriage & Iron Ltd v Riche (1875) Common law position - such ultra activities are ultra vires hence void and unenforceable. It cannot be ratified. Alteration can only be done by special resolution at the General Meeting. Statutory provision s. 20 Companies Act 1965 - such transactions are valid. scs&ismk/company law 13

scs&ismk/company law 14 Alteration of the general provisions of the Articles of Association by special resolution s. 31 CA A set of regulations for internal management of the company. Option: The company may: - adopts Table A, Fourth Schedule of the CA 1965 - (s. 30); excludes Table A, Fourth Schedule of the CA 1965; - creates its own AA, yet does not exclude the application of Table A, Fourth Schedule of the CA 1965, thus Table A will be applicable in the event of any lacunae. scs&ismk/company law 15 scs&ismk/company law It is a binding contract between the company and its members; - Hickman v Kent Sheep Breeders Assoc (1876) - Eley v Positive Government Security Life Assurance Co (1875) Before a company can be formed, there must be some

persons who have an intention to form a company and who take the necessary steps to carry that intention into operation.