

Distinguish between Memorandum of Association and Articles of Association.

Ans: According to Bowen, L.J. the difference between Memorandum of Association and Articles of Association can be stated as - "The Memorandum contains the fundamental conditions upon which alone the company is allowed to be incorporated. They are conditions introduced for the benefit of the creditors, and the outside public, as well as of the shareholders. The Articles of Association are internal regulations of the Company."

There are following differences between Memorandum and Articles of Association.

1. Memorandum of Association is the charter of the company. It contains these fundamental conditions upon which alone the company is granted incorporation. Articles of Association consists the rules and regulations framed to govern the internal management of the company.
2. Different clauses of the Memorandum can't be easily altered. They can be altered for specified purposes and in accordance with the mode prescribed by the Act. Alteration of some

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of them requires the permission of the Company Law Board while in other cases sanction of the court is necessary. Members have full control over the articles. They can alter the articles by passing a special resolution provided other conditions are satisfied.

3. Memorandum of Association can not include any clause contrary to the provisions of the Companies Act. Articles of Association is subsidiary to both the Companies Act and the Memorandum of Association. Articles can't be framed in contravention of the provisions of law and Memorandum.

4. Memorandum defines the objects and powers of the Company. It fixes up the scope and the extent of the activities of the Company. Articles form the bye-laws of the Company and provide those regulations by which the objects and powers of the Company can be carried out.

5. Though both are public documents, yet Memorandum defines the relation between the Company and outsiders, while the Articles regulate the relation between the company and the members as members alone or members inter se.

6. Things done by a company beyond the scope of the Memorandum are absolutely void and can not be ratified even by a unanimous vote of all the shareholders. But things done by a Company beyond the Articles are simply irregular and not void can easily be confirmed or subsequently ratified by the shareholders.
