

UNIT-2

| Subject Name | Subject Code | Semester | Prepared by |
|-----------------------|--------------|----------|---|
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Characteristics of an Ideal Form of Organization:

These are the factors any business should consider before choosing their form of organization. After consideration of these factors the business should be able to make an appropriate and informed decision.

1] Ease of Formation

The ideal situation would be very easy formation of the chosen form of organization. The legal formalities, paperwork etc are very limited. And the cost and time involved should also be minimal.

2] Raising Capital/Finances

Every business needs to raise capital at the beginning. So the form of organization you choose must consider the amount of capital you need to raise.

If the capital needed is huge, then your chosen ideal form of organization must provide security and assurance to the investors. They will also want transparency and return on their investment.

On the other hand if the capital needed is reasonable then other factors should be considered. Like the ownership of the business must not be unnecessarily dilute. And there must be scope for future development and expansion requiring further financing.

3] Nature of Liability

Liability of the parties involved in the business can be limited or unlimited. In terms of risk, an ideal form of organization will have limited liability. So the liability of the owners is only limited to their contribution of the capital. Their personal assets cannot be attached in case of the business going bankrupt.

On the other hand some forms of organization have unlimited liability. And the owners are liable even beyond their contribution to the company. So their personal assets and wealth can be in danger. This is not an ideal situation.

4] Scope of Control

In an ideal form of organization, the control will be with the owners of the firm. The management and ownership of a business must go hand in hand. If the owners cannot take independent decisions then the business will suffer.

5] Continuity and Stability

Stability and continuity is essential for the success of any business. So the chosen form of organization must provide both. Also this will allow the owners to plan for the future and carry out their long term plans without interruption or disturbance,

6] Flexibility

Every business functions in a very complex and dynamic business environment. So it becomes essential that they can be flexible in their operations to adapt and succeed in this changing environment. So an ideal form of organization will provide this flexibility.

7] Secrecy

Some businesses require secrecy about their records and processes. Other businesses will not suffer if there is transparency. So accordingly the owners must chose the form of organization that suits them best.

8] Lawful Business

This is a given. The choice of business must be legal. There can be no illegal activities or transactions and the form of organization you chose should safeguard this.

Sole Proprietorship:

Sole Proprietorship in simple words is a one-man business organisation. Furthermore, a sole proprietor is a natural person(not a legal person/entity) who fully owns and manages this type of entity. In fact, the business and the man are the same, it does not have a separate legal entity.

In addition, a sole proprietorship usually does not have to be incorporated or registered. Thus, it is the simplest form of business structure and the ideal choice to

run a small business or medium scale business. Let us look at some important features of a proprietorship.



Features of Sole Proprietorship:

1] Lack of Legal Formalities:

A sole proprietorship does not have a separate law to govern it. And so there are not many special rules and regulations to follow. Furthermore, it does not require incorporation or registration of any kind. In fact, in most cases, we need only the license to carry out the desired business.

And just like in its formation, there is hardly any legal process involved in its closure. All in all, it allows for ease of doing business with minimum hassles.

2] Liability:

Since there is no separation between the owner and the business, the personal liability of the owner is also unlimited. So if the business is unable to meet

its own debts or liabilities, it will fall upon the proprietor to pay them. For instance, he may have to sell all of his personal assets (like his car, house, other properties etc) to meet the debts or liabilities of the business.

3] Risk and Profit:

The business owner is the only risk bearer in a sole proprietorship. Since he is the only one financially invested in the company. As a result, he must also bear all the risk. In other words, if the business fails or suffers losses he will be the one affected.

However, he also enjoys all the profits from the business. He does not have to share his profits with any other stakeholders since there are none. So he must bear the full risk in exchange for enjoying full profits.

4] No Separate Identity:

In legal terms, the business and the owner are one and the same. No separate legal identity will be bestowed upon the sole proprietorship. So the owner will be responsible for all the activities and transactions of the business.

5] Continuity:

As seen above the business and the owner has one identity. So a sole proprietorship is entirely dependent on its owner. The death, retirement, bankruptcy, insanity, imprisonment etc will have an effect on the sole proprietorship. In such situations, the proprietorship will cease to exist and the business will come to an end.

Advantages of Sole Proprietorship:

- A proprietor will have complete control of the entire business. Thus this will facilitate quick decisions and freedom to do business
- Law does not require a proprietorship to publish its financial accounts or any other such documents to any members of the public. As a result, there is enough confidentiality which is important in the business world
- The business owner derives the maximum incentive from the business. Because he does not have to share any of his profits. So the work he puts into the business is completely reciprocated in incentives
- Being your own boss is a great sense of satisfaction and achievement. Moreover, you are answerable only to yourself. Hence it is a great boost to your self-worth as well

Disadvantages of Sole Proprietorship:

- One of the biggest limitations of a sole proprietorship is the unlimited personal liability of the owner. If the business fails it can wipe out the personal wealth of the owner as well as affect his future business prospects too
- Another problem is that a sole proprietor has access to *limited capital*. The money he can borrow from his own personal savings may not be enough to expand the business. Moreover, banks and financial institutions are also wary of lending to proprietorships.
- The life cycle of a sole proprietorship is undecided and attached to its owner. An incapacitated owner may have a negative effect on the business, and it

may even lead to the closure of the business. A sole proprietorship cannot carry on without its proprietor.

- A sole proprietor also has limited managerial ability. He cannot be an expert in all the fields of the business. Furthermore, limited resources may mean that he cannot hire competent people to help him out. As a result, the business may suffer from mismanagement and poor decisions

Partnership Definition

A partnership is an arrangement where parties, known as business partners, agree to cooperate to advance their mutual interests. The partners in a partnership may be individuals, businesses, interest-based organizations, schools, governments or combinations.

Partnership

In India, we have a definite law that covers all aspects and functioning of a partnership, The Indian Partnership Act 1932. The act also defines a partnership as “the relation between two or more persons who have agreed to share the profits from a business carried on by either all of them or any of them on behalf of/acting for all”

So in such a case two or more (maximum numbers will differ according to the business being carried) persons come together as a unit to achieve some common

objective. And the profits earned in pursuit of this objective will be shared amongst themselves.

The entity is collectively called a “Partnership Firm” and all the individual members are the “Partners”. So let us look at some important features.



Features of a Partnership:

1] Formation/Partnership Agreement

A partnership firm is not a separate legal entity. But according to the act, a firm must be formed via a legal agreement between all the partners. So a contract must be entered into to form a partnership firm.

Its business activity must be lawful, and the motive should be one of profit. So two people forming an alliance to carry out charity and/or social work will not

constitute this form of organization. Similarly, a partnership contract to carry out illegal work, such as smuggling, is void as well.

2] Unlimited Liability

In a unique feature, all partners have unlimited liability in the business. The partners are all individually and jointly liable for the firm and the payment of all debts. This means that even personal assets of a partner can be liquidated to meet the debts of the firm.

If the money is recovered from a single partner, he can, in turn, sue the other partners for their share of the debt as per the contract of the partnership.

3] Continuity

A partnership cannot carry out in perpetuity. The death or retirement or bankruptcy or insolvency or insanity of a partner will dissolve the firm. The remaining partners may continue the partnership if they so choose, but a new contract must be drawn up. Also, the partnership of a father cannot be inherited by his son. If all the other partners agree, he can be added on as a new partner.

4] Number of Members

As we know that there should be a minimum of two members. However, the maximum number will vary according to a few conditions. The Partnership Act itself is silent on this issue, but the Companies Act, 2013 provides clarity.

For a banking business, the number of partners must not exceed ten. For a business of any other nature, the maximum number is twenty. If the number of partners increases it will become an illegal entity or association.

5] Mutual Agency

In this type of organisation, the business must be carried out by all the partners together. Or alternatively, it can be carried out by any of the partners (one or several) acting for all of them or on behalf of all of them. So this means every partner is an agent as well as the principal of the partnership.

He represents the other partners in some cases so he is their agent. But in other circumstances, he is bound by the actions of any of the other partners making him the principal as well.

Types of Partners:

Not all partners of a firm have the same responsibilities and functions. There can be various types of partners in a partnership. Let us study the types of partners and their rights and duties.

- **Active Partner:** As the name suggests he takes active participation in the business of the firm. He contributes to the capital, has a share in the profit and also participates in the daily activities of the firm. His liability in the firm will be unlimited. And he often will act as an agent for the other partners.

- **Dormant Partner:** Also known as a sleeping partner, he will not participate in the daily functioning of the business. But he will still have to make his share of contribution to the capital. In return, he will have a share in the profits. His liability will also be unlimited.
- **Secret Partner:** Here the partner's association with the firm is not public knowledge. He will not represent the firm to outside agents or parties. Other than this his participation with respect to capital, profits, management and liability will be the same as all the other partners.
- **Nominal Partner:** This partner is only a partner in name. He allows the firm to use the name of his firm, and the attached goodwill. But he in no way contributes to the capital and hence has no share in the profits. He does not involve himself in the firm's business. But his liability too will be unlimited.
- **Partner by Estoppel:** If a person makes it out to be, through their conduct or behaviour, that they are partners in a firm and he does not correct them, then he becomes a partner by estoppel. However, this partner too will have unlimited liability

Contents of Partnership Deed:

This partnership deed will contain all the conditions and the legalities of the partnership deed. It will provide a guiding basis for all future activities. And in case of a dispute or legal proceedings, it can also be used as evidence. A general partnership deed will contain the following information,

- The agreed name of the Partnership Firm. Please note that such a name cannot have the words “company” or “private company” in it.
- The nature of the business will also be mentioned in the deed
- Date of commencement of such business
- The place of business, i.e addresses of main office or branch offices if any, where communication can be sent
- The duration of a partnership if it is a partnership for a specific purpose or time. If it is a partnership at will then no such duration will be mentioned
- Contribution to the capital of all the partners
- Profit sharing ratio. However, if no ratio is given it is assumed that the profit is shared by all the partners equally.
- Salary of all active partners
- Interest on contribution and the interest on drawings (must be according to the provisions of the Indian Partnership Act 1932)
- Terms and conditions of the retirement or expulsion of a partner, and the terms to continue the partnership after such an incident
- The day-to-day functioning of the firm and the distribution of the managerial duties among the partners
- Preparation of the firm’s accounts and the provisions for internal and statutory audit

- Procedure for voluntary or forced dissolution of the firm
- Guidelines for solving any disputes and arbitration process to be followed

Registration of Partnership:

As per the Partnership Act 1932, it is not compulsory to register a partnership firm. The firm does not have a separate legal identity and registration will not alter this fact. However, registration is the definite proof of the existence of the firm and its legality.

Non-registration of a firm has some real-life legal consequences for the partners and the firm itself. So it is always advisable to draw up a written partnership deed and register the firm with the Registrar of Firms. The consequences of not doing so are as follows,

- The firm cannot file legal proceedings against any third party for any situation. For example, if the client has not paid his dues to the firm, the firm cannot sue him if it is unregistered.
- An unregistered firm cannot fail a case against a partner for any reason (like mismanagement, theft etc)
- A partner of an unregistered firm cannot file a suit against one of the other partners either.

Procedure of Registration:

According to the India Partnership Act 1932, there is no time limit as such for the registration of a firm. The firm can be registered on the date when it is incorporated or any such date after so. The requisite fees and fines must be paid. The procedure for such a registration is as follows,

1] Application to the Registrar of Firms in the prescribed form (Form A). Nowadays this facility is even available online. Such an application must contain certain basic details about the firm such as,

- Name of the Partnership Firm
- Name and address of all partners
- Place of business (address of main and branch offices)
- Duration of the partnership
- Date of joining of partners
- Date of commencement of business

2] The duly signed copy of the Partnership Deed (which contains all the terms and conditions) must be filled with the registrar

3] Deposit/pay the necessary fees and stamp duties

4] Once the registrar approves the application, the firm will be entered into the records. And the registrar will also issue a certificate of incorporation.

And this is how the process of registration will be completed and the firm will attain legal recognition.

Hindu Undivided Family (HUF):

The Joint Hindu Family Business or the Hindu Undivided Family (HUF) is a unique type of business entity. It is governed and dictated by the Hindu Law, which is one of the several religious laws prevalent in India.

So who all are members of such an organization? Well, any person born into the family (boy or girl) up to the next coming three generations is a part of the HUF. These members are the co-parceners. The head of such a Joint Family Business is the eldest member of the family, the “Karta”. He is the main person responsible for the business and the finances.



Features of a HUF:

- **Formation:** To begin a Hindu Undivided Family there must be a minimum of two related family members. There must be some assets, business or ancestral property that they have inherited or will eventually inherit. The formation of a HUF does not require any documentation and admission of new members is by birth.
- **Liability:** The liability of all the various co-parceners is only up to their share of the property or business. So they have limited liability. But the Karta being the head of the HUF has unlimited liability.
- **Control:** The entire control of the entity lies with the Karta. He may choose to confer with the co-parceners about various decisions, but his decision can be independent. His actions will be final and also legally binding.
- **Continuity:** The HUF can be continued perpetually. At the death of the Karta, the next eldest member will become the Karta. However, keep in mind a Hindu Undivided Family can be dissolved if all members mutually agree.
- **Minority:** As we saw earlier the members are eligible to be co-parceners by the virtue of their birth into the family. So in this case, even minor members will be a part of the HUF. But they will enjoy only the benefits of the organisation.

Advantages of the HUF:

- A Hindu Undivided family is comprised of family members running a business. Like any other organisation, there is scope for disagreements and conflicts. But

since the Karta has absolute power and takes all decisions by himself, it will lead to effective management.

- Just like a company, the existence of a HUF is perpetual. The death or retirement of one member or even the Karta will not affect it, and it will continue on.
- Since the co-parceners do not have any effective control over the management of the HUF, and all power lies with the Karta, the liability of the members has also been limited to only their share of the property. This keeps the balance between power and responsibility.
- Also since all members of the HUF are relatives and members of the same family, there is a sense of loyalty and cooperation. The trust among members is also there and leads to overall cooperation.

Disadvantages of the HUF:

- No outside members other than family members can be introduced to the HUF. This makes it very difficult to get additional capital from the market. With limited capital, the chances of expansion are very low. It limits the scope of the business.
- While the Karta has all the power he also has the burden of unlimited liability. This may make him overly cautious and timid in his business dealings. In turn, the business could suffer. Another factor is that he may even be held responsible for the actions of other members.

- Also, the absolute dominance of the Karta overall business and financial decisions make cause conflict among the HUF. His decisions and business acumen may be questioned by other members, and cause issues within the HUF.
- Another issue may be that the Karta may not be the most qualified person to lead the business. The position is given to the senior most family member, whether he is the most qualified or not is not taken into consideration

Joint Stock Company

“A voluntary association of persons for profit, having the capital divided into some transferable shares, and the ownership of such shares is the condition of membership of the company.”

Features of a Joint Stock Company:

1] Artificial Legal Person:

A company is a legal entity that has been created by the statues of law. Like a natural person, it can do certain things, like own property in its name, enter into a contract, borrow and lend money, sue or be sued, etc. It has also been granted certain rights by the law which it enjoys through its board of directors.

However, not all laws/rights/duties apply to a company. It exists only in the law and not in any physical form. So we call it an artificial legal person.

2] Separate Legal Entity:

Unlike a proprietorship or partnership, the legal identity of a company and its members are separate. As soon as the joint stock company is incorporated it has its own distinct legal identity. So a member of the company is not liable for the company. And similarly, the company will not depend on any of its members for any business activities.

3] Incorporation:

For a company to be recognized as a separate legal entity and for it to come into existence, it has to be incorporated. Not registering a joint stock company is not an option. Without incorporation, a company simply does not exist.

4] Perpetual Succession:

The joint stock company is born out of the law, so the only way for the company to end is by the functioning of law. So the life of a company is in no way related to the life of its members. Members or shareholders of a company keep changing, but this does not affect the company's life.

5] Limited Liability:

This is one of the major points of difference between a company and a sole proprietorship and partnership. The liability of the shareholders of a company is

limited. The personal assets of a member cannot be liquidated to repay the debts of a company.

A shareholders liability is limited to the amount of unpaid share capital. If his shares are fully paid then he has no liability. The amount of debt has no bearing on this. Only the companies assets can be sold off to repay its own debt. The members cannot be made to pay up.

6] Common Seal:

A company is an artificial person. So its day-to-day functions are conducted by the board of directors. So when a company enters any contract or signs an agreement, the approval is indicated via a common seal. A common seal is engraved seal with the company's name on it.

So no document is legally binding on the company until and unless it has a common seal along with the signatures of the directors.

7] Transferability of Shares:

In a joint stock company, the ownership is divided into transferable units known as shares. In case of a public company the shares can be transferred freely, there are almost no restrictions. And in a private company, there are some restrictions, but the transfer cannot be prohibited.

Advantages of a Joint Stock Company

- One of the biggest drawing factors of a joint stock company is the limited liability *of its members*. their liability is only limited up to the unpaid amount on their shares. Since their personal wealth is safe, they are encouraged to invest in joint stock companies
- The shares of a company are transferable. Also, in the case of a listed public company they can also be sold in the market and be converted to cash. This ease of ownership is an added benefit.
- Perpetual succession is another advantage of a joint stock company. The death/retirement/insanity/etc does affect the life of a company. The only liquidation under the Companies Act will shut down a company.
- A company hires a board of directors to run all the activities. Very proficient, talented people are elected to the board and this results in effective and efficient management. Also, a company usually has large resources and this allows them to hire the *best talent and* professionals.

Disadvantages of a Joint Stock Company

- One disadvantage of a joint stock company is the complex and lengthy procedure for its formation. This can take up to several weeks and is a costly affair as well.
- According to the Companies Act, 2013 all public companies have to provide their financial records and other related documents to the registrar. These

documents are then public documents, which any member of the public can access. This leads to a complete lack of secrecy for the company.

- And even during its day to day functioning a company has to follow a numerous number of laws, regulations, notifications, etc. It not only takes up time but also reduces the freedom of a company
- A company has many stakeholders like the shareholders, the promoters, the board of directors, the employees. the debenture holders etc. All these stakeholders look out for their benefit and it often leads to a conflict *of interest*.

Types of Companies:

Private Company

This is a type of company that finds mention in the Companies Act, 2013. The purpose of private companies is when the business is not very large, but the owners/management still want to opt for a company over a partnership or proprietorship. Let us look at some of the features/characteristics of a private company.

- Minimum numbers of members required to incorporate a private company are 2. There is also a maximum limit of 200 members. However, joint members of shares are counted as one member.
- The minimum paid-up capital for a private company has been kept at one lacs. There is no maximum limit in this case.

- Transferability of shares by its members is restricted. Such transfers are not absolutely prohibited, but there are certain restrictions put by the Companies Act. This is to avoid takeovers by larger companies and multinationals and ensure the sanctity of private companies
- Private companies under no circumstances can accept deposits from the public. It cannot invite members of the public to subscribe to its shares either.
- The number minimum of directors to be appointed are 2. No independent directors are required.

Privileges of a Public Company

Now a private company under the Companies Act enjoys certain privileges over a public company. Since a private company does not take deposits from the public, certain rules have been relaxed in their favour. Let us take a look at all the privileges that private companies enjoy.

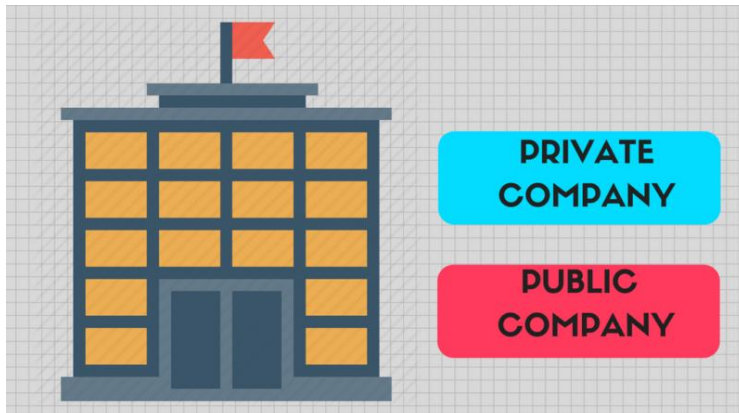
- The minimum number of members are restricted to 2. So it does not require many promoters to start a private company.
- Since the members of the public are not invited to subscribe shares there is no need to issue a prospectus on any such similar document.
- There is no need to wait for a minimum subscription amount to be received. The members can allot shares within themselves and immediately incorporate the company.

| Point | Private Company | Public Company |
|-------------------------|--|--|
| Paid-up Capital | Minimum paid-up capital of Rs 1.00.000/- | Minimum paid-up capital of Rs 500.000/- |
| No. of Members | Minimum 2 members and maximum 200 | Minimum 7 members, no max limit |
| Name of Company | Name must end in “private limited” | Name must end in “public limited” |
| No. of Directors | Minimum two directors, and no need for independent directors | Minimum 3 directors, and if listed company one-third must be independent |
| Managerial Remuneration | There are no restrictions | Restricted to 11% of the Net profit of the company |

| | | |
|--------------------|--|--|
| Quorum of Meetings | Minimum two members, present in person | Quorum will depend on the total number of members of the company |
| Public offer | Private companies cannot have public offers for shares | Public offers must be in the demat form only |
| Accepting Deposits | Not allowed according to the act | If paid capital exceeds 100 crores, or turnover exceeds 500 crores, the company can accept public deposits |

- While incorporation with the registrar of companies is compulsory, there is no commencement certificate in the case of private companies. The business can start functioning immediately after receiving the certificate of incorporation.
- In case of a private company, there is no need to maintain a register of shareholders.
- It can allot any type of shares to its members. even shares with differential voting rights which are prohibited for public companies.

- Its financial accounts are not accessible by any member of the public. It can maintain some secrecy in the matter.
- The directors need not retire by rotation and there is no limit on their remuneration as well.



Public Company

In simple terms, a public company is a company whose shares can be subscribed by members of the public. As per the Companies Act, 2013 a public company is

- A company that is not a private company
- Has a minimum of seven members, no maximum limit is mentioned
- Has a minimum paid-up capital of five lacs, again there is no maximum limit
- A private company that is a subsidiary of a public company, will be considered a public company

There are certain documents required to be filled by a public company with the Registrar of companies, so let us take a look at these documents

- Memorandum of Association: This is the constitution of a company. States the objective of the company, the total capital, the name of the company, the registered address etc.
- Articles of Association: This document contains rules and regulations of the internal management of the company.
- Prospectus: Because the company wishes to invite funds from the public it must register and issue a prospectus or a document in lieu of a prospectus. Any material misstatement in the prospectus by the directors, promoter, or the experts is a criminal liability.

Introduction:

A **cooperative society** is not a new concept. It prevails in all the countries, this is almost a universal concept. The cooperative society is active in all countries worldwide and is represented in all the sectors including agriculture, food, finance, healthcare, etc.

To protect the interest of weaker sections, the co-operative society is formed. It is a voluntary association of persons, whose motive is the welfare of the members.

Features of a Cooperative Society:



(Source: encryptedbn0)

- As it is a voluntary association, the membership is also voluntary. A person is free to join a cooperative society, and can also leave anytime as per his desire. Irrespective of their religion, gender & caste, membership is open to all.
- It is compulsory for the co-operative society to get registration. The co-operative society is a separate legal identity to the society.
- It does not get affected by the entry or exit of its members.
- There is limited liability of the members of co-operative society. Liability is limited to the extent of the amount contributed by members as capital.
- An elected managing committee has the powers to take decisions. Members have the right to vote, by which they elect the members who will constitute the managing committee.
- The cooperative society works on the principle of mutual help & welfare. Hence, the principal of service dominates its working. If any surplus is generated, it is distributed amongst the members as a dividend in conformity with the bye-laws of the society.

Types of Cooperative Society

1] Producer Cooperative

To protect the interest of small producers, these societies are set up. The co-operative society members may be farmers, landowners, owners of the fishing

operations. To increase the marketing possibilities and production efficiency, producers decide to work together or as separate entities.

They perform several activities like processing, marketing & distributing their own products. This helps in lower costs and strains in each area with a mutual benefit to each producer.

2] Consumer Cooperative

These businesses are owned and governed by consumers of a particular area for their mutual benefit. Their view is to provide daily necessary commodities at an optimum price. Rather than earning a pecuniary profit, their aim is towards providing service to the consumers.

3] Credit Unions

Credit unions are generally member-owned financial cooperatives. Their principle is of people helping people. They provide credit and financial services to the members at competitive prices. Each and every depositor has the right to become a member. Members attend the annual meeting and are given rights to elect a board of directors.

4] Marketing Cooperative Society

With an aim of helping small producers in selling their products, these societies are established. The producers who wish to obtain reasonable prices for their output are the members of this society. For securing a favorable market for the products

they eliminate the middlemen and improve the competitive position of its members. It collects the output of individual members. Various marketing functions like transportation, packaging, warehousing, etc are performed by the cooperative societies to sell the product at the best possible price.

5] Housing Cooperative Society

To help people with limited income to construct houses at reasonable costs, these societies are established. Their aim is to solve the housing problems of the members. A member of this society aims to procure the residential house at lower cost. They construct the houses and give the option to members to pay in installments to purchase the house. They construct flats or provide plots to members on which the members themselves can construct the houses as per their choice.

Public utilities are those business undertakings which provide necessary services to the society. The undertakings dealing with the supply of electricity, gas, power, water and transport etc. are all covered under public utility services. All these things are needed in the day-to-day life of the people.

The undertakings dealing with public utilities require large scale capital investments. It is expected that the services should be provided at reasonable rates. Public utilities tend to be monopoly concerns. The entry of other entrepreneurs in these fields is generally barred by the government.

The purpose of making public utilities as monopoly concerns is to serve the consumers in a better way and to provide services at cheap rates. Certain special privileges are also given to these concerns with a view to improve their working.

R.G. Hawtrey defines public utilities as “a service in which a tendency to a local monopoly necessitates, the intervention of a public authority to defend the interest of the consumer.” Garuham Roper defines a public utility as “any undertaking that meets the needs or inconveniences of a considerable section of the public and that places the undertakings in a position justifying the imposition of the control in return for monopolistic or other special privileges.”

Characteristics of Public Utilities:

(i) Protection of Consumers:

Public utilities are meant for serving the consumers. The supply of services like electricity, water, power, transport should be adequately maintained. Public cannot do without these services. These services should also be provided at reasonable rates. These services being necessities, consumer exploitation is possible. The supply of essential services should not only be at lower prices but they should be constantly maintained.

(ii) Monopoly Position:

Public utility enterprises are given monopoly in a particular area. These undertakings are the outcome of special legislations. The entry of other concerns is barred to these fields. Monopoly position is necessary to avoid duplication in providing these services. These undertakings require large capital investments for want of resources. Small investors cannot enter these fields. The supply of essential services should be maintained regularly. Public utility service can be well maintained when the power to operate in a field is absolute.

(iii) Special Franchise:

Public utility concerns are given special powers and privileges so that regular and satisfactory supply is maintained. The privileges and special status is conferred by

the legislations passed for creating those concerns. Franchise is a charter of special powers, privileges and duties as well. Public utility concerns may acquire and use public property, if necessary. The powers are given in good faith and these concerns should not make misuse of these powers.

(iv) Large Investments:

Public utility concerns require large investments of capital. The investments are more in fixed assets. In case of railways, large amounts are spent on providing railway lines, purchase of engines and wagons and constructing railway stations. In the same way, electricity concerns require large investment on setting up lines. The expansion of supply of these services reduces cost per unit as no additional investment is required. Cost per unit will go on decreasing with the expansion in service.

(v) Public Regulations:

Public utility undertakings are generally created by special legislation of Parliament and state legislature. Indian Railways are set up under a special act of Parliament. Electricity Boards are set up in different states by state legislatures. Special acts are necessary because certain special powers and privileges are needed to maintain regular and efficient service.

(vi) No Business Risks:

The demand for public utility always remains. So there is no risk on this score. There is no fear of competition because of monopolistic conditions. The demand for these services is both direct and derived. The use of electricity in the house is a direct demand and the use of power for running engines is a derived demand. There is always a possibility of increase in demand. So, public utility undertakings do not suffer from business risks as other undertakings suffer.

(vii) Pricing Policies:

The primary aim of public utility services is to help the society in getting essential services at reasonable prices. The prices are also affected by the nature of demand and laws of returns. These concerns operate under decreasing cost conditions. So, they should charge reasonable prices. The pricing policy of these undertakings is generally guided by the government. Some margin of profit is allowed to maintain efficiency and expansion of these services.

Forms of Public Utility Undertakings:

The form of public utility undertakings depends upon the nature and type of service provided by them. The ownership of these undertakings is always preferred to be in government hands. It ensures regular supply of these services without any discrimination to consumers. It also helps to protect the interests of consumers.

Generally, following forms may be used for these undertakings:

- (i) Public authority.
- (ii) Private company operating under limited monopoly.
- (iii) Joint ownership concerns i.e., Public and Private companies.
- (iv) Public utility trusts.

“Public enterprises are autonomous or semi-autonomous corporations and companies established, owned and controlled by the state and engaged in industrial and commercial activities.”

Characteristics of Public Enterprises:

(i) Financed by Government:

Public enterprises are financed by the government. They are either owned by the government or majority shares are held by the government. In some undertakings private investments are also allowed but the dominant role is played by the government only.

(ii) Government Management:

Public enterprises are managed by the government. In some cases government has started enterprises under its own departments. In other cases, government nominates persons to manage the undertakings. Even autonomous bodies are directly and indirectly controlled by the government departments.

(iii) Financial Independence:

Though investments in government undertakings are done by the government, they become financially independent. They are not dependent on the government for their day- to-day needs. These enterprises arrange and manage their own finances. An element of profitability is also considered while pricing their products. It has helped the enterprises to finance their growth themselves.

(iv) Public Services:

The primary aim of state enterprises is to provide service to the society. These enterprises are started with a service motive. A private entrepreneur will start a concern only if possibilities of earning profits exist but this is not the purpose of public enterprises.

(v) Useful for Various Sectors:

State enterprises do not serve a particular section of the society but they are useful for everybody. They serve all sectors of the economy.

(vi) Direct Channels for Using Foreign Money:

Most of the government to government aid is utilised through public enterprises. Financial and technical assistance received from industrially advanced countries is used in public enterprises.

(vii) Helpful in Implementing Government Plans:

Economic policies and plans of the government are implemented through public enterprises

(viii) Autonomous or Semi-autonomous Bodies:

These enterprises are autonomous or semi-autonomous bodies. In some cases they work under the control of government departments and in other cases they are established under statutes and under Companies Act.

Public enterprises can be of three types as follows:

1. Departmental Undertaking

It is created by government. It is part of the government system and is attached as department to a government ministry. Department undertaking has no separate legal status. Its activities are business-oriented with service motive. It follows government rules and regulations. It has no flexibility in operations. It is financed, managed and controlled by government. It has public accountability.

The ministry is answerable about its affairs. An example of such undertaking is Postal Services Department.

2. Public Corporation

Public corporation is created by a special act of parliament. It has separate legal status. Its scope, objectives, power, duties and operating procedures are specified by the Act. Public corporation is established to achieve socioeconomic objectives of the country. It is guided by service motive. It enjoys flexibility and autonomy in internal operations. It is financed by government and managed by government appointed board of directors. It has public accountability through parliament.

3. Government Company

Government company is a joint stock company created under the Company Act. It has a separate legal status. It can be public or private company. The government ownership in shares ranges from 51% to 100%. It can borrow funds and its activities are business oriented with service motive. It also makes profit. The liability of shareholders is limited. It enjoys full flexibility internal operations. It follows its own rules and regulations. It is managed by a board of directors. Government nominees have majority in the board.

The Content in the E-Material has been taken from the text and reference book as given in the Syllabus.