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FORMATION OF A COMPANY

Question 7:

Preliminary Contracts are signed

- (a) before the incorporation
- (b) after incorporation but before capital subscription
- (c) after incorporation but before commencement of business
- (d) after commencement of business

ANSWER:

Preliminary contracts are signed between the promoters and the third party during the promotion of a company. As they are signed during the first stage of a company's promotion, they are said to be signed before the incorporation of a company.

Hence, the correct answer is option (a).

Question 8:

Preliminary Contracts are

- (a) binding the company
- (b) binding on the company, if ratified after incorporation
- (c) binding on the company after the incorporation
- (d) not binding on the company

ANSWER:

Preliminary contracts are signed between the promoters and the third party during the promotion of a company. As they are signed before the incorporation of a company, they

are not regarded as binding on the company. The company cannot ratify these contracts and are not forced to honour them.

Hence, the correct answer is option (d)

Question 1:

It is necessary to get every company incorporated, whether private or public.

ANSWER:

The statement is **TRUE**. It is necessary for every company to be incorporated, because a company can legally commence its business only after its incorporation with the registrar of companies.

Question 2:

Statement in lieu of prospectus can be filed by a public company going for a public issue.

ANSWER:

The statement is **False**. A public limited company inviting applications from the general public to subscribe to its shares or debentures is mandatorily required to file a *prospectus* with the Registrar of Companies. However, if a company is confident that it can raise funds through private sources i.e. through friends, relatives or some private arrangements as done by a private company, then it may file a *statement in lieu of prospectus* with the Registrar of Companies atleast three days before making the allotment.

Question 3:

A company can commence business after incorporation.

ANSWER:

The statement is **FALSE**. Not every company can start its business after incorporation. It is only a private company that becomes a legal entity as soon as it is incorporated. Thus, only a private company can immediately commence its business after incorporation.

Question 4:

Expert who help promoters in the promotion of a company are also called promoters.

ANSWER:

The statement is **FALSE**. A promoter is an individual who discovers the idea of formation of a company and takes steps to achieve this purpose. On the other hand, experts who help promoters in promoting a company are not considered as promoters. They only assist the promoters.

Question 5:

A company can ratify preliminary contracts after incorporation.

ANSWER:

The statement is **FALSE**. This is because a preliminary contract are signed before the incorporation of a company. These are contracts which the promoter undertakes with the third party during the company's promotion. Thus, the company cannot ratify preliminary contracts after incorporation and cannot also be forced to honour these contracts.

Question 6:

If a company is registered on the basis of fictitious names, its incorporation is invalid.

ANSWER:

The statement is **FALSE**. This is because once the certificate of incorporation is issued, its existence cannot be questioned. Thus, as the certificate of incorporation provides definite evidence of the incorporation of a company, its incorporation will not be regarded as invalid even if it is registered on the basis of fictitious names.
