ALTERATION OF THE MEMORANDUM OF ASSOCIATION UNDER THE COMPANIES ACT, 2013: BALANCING CORPORATE FLEXIBILITY AND STAKEHOLDER PROTECTION

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ABSTRACT

The Memorandum of Association (MoA) is a company's foundational document, and the Companies Act, 2013 permits its alteration to meet evolving business needs while protecting stakeholder interests. This paper examines the legal framework governing such alterations and asks whether existing safeguards truly prevent misuse of this power. It begins with the doctrine of ultra vires and its relevance to the objects clause, as established in Ashbury Railway Carriage & Iron Co. v. Riche and applied by the Supreme Court in A. Lakshmanaswami Mudaliar v. LIC. It then analyses Section 13, along with Sections 4, 61, and 64, which govern changes to a company's name, registered office, objects, and capital, together with the procedural requirements under the Companies (Incorporation) Rules, 2014. The paper further evaluates the varying degrees of protection given to shareholders, minority shareholders, creditors, debenture-holders, and non-member stakeholders such as employees and communities. Drawing on landmark and recent judicial rulings, it argues that alteration powers, though statutorily granted, must still satisfy the tests of bona fide exercise and constitutional purpose. It concludes that meaningful protection depends on genuine disclosure and effective regulatory scrutiny, and recommends reforms to strengthen minority shareholder safeguards.

Keywords: *Memorandum of Association, Companies Act, 2013, Alteration of MoA, Doctrine of Ultra Vires, Stakeholder Protection, Corporate Governance*

1. Introduction

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1.1 Memorandum of Association (MoA) and need for alteration

The Memorandum of Association is the foundational constitutional document of a company. According to Section 2(56)[1] of the Companies Act, 2013, a memorandum is a company's initial or occasionally modified memorandum of association. Section 4[2] and Schedule I of the Companies Act, 2013 prescribe its essential contents, including the company's name, State of the registered office, objects, liability of members, share capital and subscription details.

The scale at which this framework operates in practice is considerable. As of 31 December 2025, the Ministry of Corporate Affairs recorded over 30.30 lakh registered companies in India, of which approximately 20.15 lakh were active, meaning that the constitutional documents discussed in this paper are subject to constant amendment across a very large corporate base. Any assessment of the adequacy of alteration safeguards must therefore be understood against this backdrop of scale, where even a modest proportion of non-compliant or contested alterations could affect a considerable number of stakeholders.[3]

The Articles of Association and the Companies Act work in tandem with the MoA. The Articles govern internal management, the MoA establishes the company's basic constitutional framework, and the Act establishes necessary regulations. The registered memorandum and articles are binding on the company and its members under Section 10[4] of the Companies Act, 2013. The public nature of these documents is significant because outsiders are entitled to rely on the company's disclosed constitutional structure.

Historically, the objects clause had a crucial role in establishing boundaries. The House of Lords, in *Ashbury Railroad Carriage & Iron Co. Ltd. v. Riche*[5] upheld that a company could only act in accordance with the goals specified in its memorandum. Outside of those objects, an act was void and ultra vires. Similarly, in *A. Lakshmanaswami Mudaliar(Dr.) v. LIC*[6], the Supreme Court of

[1] The Companies Act, 2013, § 2(56) (India).
[2] The Companies Act, 2013, § 4 (India).
[3] The Policy Edge, '*MCA Annual Report: India's Corporate Regulatory System Expands as Digital Governance Deepens*' (https://www.policyedge.in/p/mca-annual-report-indias-corporate-regulatory-system-expands-as-digital-governance-deepens) accessed 25 September 2026.
[4] The Companies Act, 2013, § 10 (India).
[5] *Ashbury Railway Carriage & Iron Co. v. Riche*, LR 7 HL 653 (1875).
[6] *A. Lakshmanaswami Mudaliar (Dr.) v. LIC*, 33 Comp Cas 420 (1963).

India adopted the same reasoning, ruling that corporate funds may not be used for reasons unrelated to the company's authorized objects only because shareholders had approved the expenditure.

Despite the MoA's stability and assurance, companies operate in dynamic commercial contexts. A company may need to make modifications if it diversifies its operations, grows geographically, transforms its corporate identity, reorganizes operations, moves its registered office, increases authorized capital, or alters its business objectives. A company that was incorporated for one activity can eventually need to expand into infrastructure, technology, finance, or another industry. Similiarly, a change in the company's name or objects may be necessary following a merger, demerger, purchase, or change in ownership. The law must therefore reconcile two competing considerations. Excessive rigidity may prevent companies from responding to legitimate commercial developments. However, too much flexibility could allow directors or controlling shareholders to misappropriate corporate funds, disappoint creditors, or drastically change the company without the relevant stakeholders' meaningful assent.

1.2 Research questions and objectives

This paper addresses the following questions:

1. What is the legal framework governing alteration of the MoA under the Companies Act, 2013?
2. How does the law protect shareholders, creditors, debenture-holders and other stakeholders?
3. How have courts balanced corporate flexibility with the doctrines of ultra vires and minority protection?
4. Are the existing safeguards sufficient to prevent misuse of alteration powers?

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The objectives are to examine the statutory framework, analyse the procedure for different clauses, study judicial limitations, evaluate stakeholder safeguards and suggest reforms.

1.3 Research Methodology

This paper adopts a doctrinal legal research methodology. It relies primarily on statutory provisions of the Companies Act, 2013, particularly Sections 4, 13, 61, 64, 101, 114, 117, 166, 173, 241 and

242 along with the Companies (Incorporation) Rules, 2014, to identify and analyse the legal framework governing alteration of the Memorandum of Association. Judicial decisions of Indian and English courts, including *Ashbury Railway Carriage & Iron Co. Ltd. v. Riche*, *A. Lakshmanaswami Mudaliar (Dr.) v. LIC*, *State of M.P. v. Orient Paper Mills Ltd.*, and other recent rulings, are examined to understand how courts have interpreted statutory alteration powers and applied the doctrine of ultra vires. Secondary sources, including academic books and commentaries, law journal articles, and reports on corporate governance, are used to supplement the analysis and situate the statutory and judicial material within broader scholarly debate.

The study is qualitative and analytical in nature. It does not involve empirical data collection, surveys, or interviews; instead, it critically examines existing legal texts and judicial reasoning to evaluate the adequacy of stakeholder protection under the current framework and to identify potential gaps and areas for reform.

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2. Memorandum of Association: Conceptual and Legal Foundations

2.1 Meaning and nature

Section 2(56) refers to the MoA as a document that may exist in its original or modified form. According to Section 4, the memorandum must include the company's name, the state where its registered office will be located, its objects, and any information required to achieve those objects. If a company has share capital, subscribers must agree to take the designated number of shares, and the memorandum must also specify the amount of share capital and how it is divided into shares.

The MoA is often described as the company's charter because it determines the scope of its legal personality. Section 10 makes the registered memorandum and articles binding on the company and its members. Section 15[7] further requires changes to be recorded in all subsequent copies of the memorandum and articles. Registration is thus more than just an administrative formality; it provides public legal effect to the constitutional amendment.[8] This registration-based model of public reliance is actively enforced by the Ministry of Corporate Affairs, which removes non-compliant companies from the register at scale: between April 2019 and July 2022 alone, over 1,12,000 companies were struck off under Section 248(1) of the Companies Act, 2013 for failing to maintain current statutory filings. Such enforcement reflects the underlying premise that public reliance on registered constitutional documents is only justified where the register itself remains accurate and current.[9]

2.2 Principal clauses

The principal clauses are:

- Name clause: identifies the company and sets it apart from other companies.

[7] The Companies Act, 2013, § 15 (India).
[8] Mercurius. (2026, August 6). Alteration of memorandum: A complete guide to Section 13 of the Companies Act, 2013. *Mercurius & Associates LLP; Mercurius.* Retrieved from https://masllp.com/alteration-of-memorandum-a-complete-guide-to-section-13-of-the-companies-act-2013/
[9] Ragini Singh, '*Provisions of Strike Off under Section 248 of the Companies Act, 2013 for Non-Compliance with Mandatory Legal Requirements*' (https://www.barandbench.com/law-firms/view-point/provisions-of-strike-off-us-248-of-the-companies-act-2013-for-non-compliance-with-mandatory-legal-requirements) accessed 25 September 2026.

- Registered-office clause: establishes the company's primary regulatory jurisdiction and identifies the state where the registered office is located.
- Objects clause: states the purposes for which the company is incorporated and matters necessary for their furtherance.
- Liability clause: states whether member liability is limited or unlimited and, in a company limited by guarantee, the guaranteed amount.
- Capital clause: specifies the authorized share capital and its division into shares, where applicable.
- Subscription or association clause: records the subscribers' intention to form the company and their commitment to take shares.

Because each provision protects distinct interests, the legal implications of modification vary. Corporate identity is the main concern of a name change; jurisdiction, creditors, and regulatory access may be impacted by a registered office change; investors' business risk may be altered by an object change; and the company's financing capacity and member positions may be impacted by a capital change.

2.3 Doctrine of ultra vires

The doctrine of ultra vires is central to understanding the objects clause. The doctrine of ultra vires means a company cannot legally do anything beyond what its Memorandum of Association allows. Anything outside those stated objects is void from the start, not just voidable, and cannot be validated even if every shareholder agrees to it. In *Ashbury Railroad Carriage & Iron Co. Ltd. v. Riche*[10], the corporation entered into a railroad construction agreement despite having narrower objectives. The House of Lords ruled that the transaction was null and void since it was outside the company's objectives. By prohibiting the company's capital from being used for reasons other than those specified in the company's objectives, the doctrine protected its members and creditors.

The Supreme Court reiterated in *Lakshmanaswami Mudaliar(Dr.) v. LIC*[11] that directors are not permitted to use corporate property for purposes other than those permitted by the company. Despite the statutory authority to modify the MoA, the doctrine is still applicable. A company must

[10] *Ashbury Railway Carriage & Iron Co. v. Riche*, LR 7 HL 653 (1875).
[11] *A. Lakshmanaswami Mudaliar (Dr.) v. LIC*, 33 Comp Cas 420 (1963).

operate within its existing boundaries until the alteration is legally registered. An act that was ultra vires at the time cannot be validated in retrospect by an alteration. Therefore, changing the objects clause is more than just an administrative adjustment; it may alter the company's legal and business identity.[12]

In essence, the doctrine exists to protect shareholders and creditors by keeping companies within the boundaries they originally set for themselves, ensuring that corporate power is used only for the purposes it was actually granted for.



[12] Griffin, S. (1998). The rise and fall of the ultra vires rule in corporate law. *Mountbatten Journal of Legal Studies*, 2(1), 5–31.

3. Statutory Framework for Alteration of the MoA

3.1 General rule under Section 13

According to Section 13(1)[13], a company may alter its memorandum by passing a special resolution and following the required procedure, subject to Section 61[14].

Section 13 establishes a distinct framework. The process varies depending on whether the company is altering its registered office, name, or objects. While changes to authorized share capital are primarily governed by Section 61.

According to Section 13(10)[15], registration is required; an alteration cannot be implemented until it has been registered with the Registrar.[16]

3.2 Alteration of the Name clause

In compliance with Section 13(2)[17], a company may change its name by passing a special resolution and obtain approval. The suggested name cannot be the same as or too similar to the name of an existing company. Certain changes may not require Central Government approval, including a change merely adding or deleting the word "Private" consequent upon conversion of a company's class. Following approval, the company needs to file the required documents and get a new certificate of incorporation.

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This procedure has been substantially streamlined through the Ministry of Corporate Affairs' Central Registration Centre and the integrated SPICe+ web form, which allow name reservation to be processed alongside incorporation and several other regulatory registrations through a single electronic filing. Such centralisation reduces the scope for delay and discretion at the stage of name

[13] The Companies Act, 2013, § 13(1) (India).
[14] The Companies Act, 2013, § 61 (India).
[15] The Companies Act, 2013, § 13(10) (India).
[16] World Law Digest. (n.d.). Companies Act 2013 Section 13 – Alteration of memorandum. Retrieved from https://www.worldlawdigest.com/india/companies-act-2013-section-13
[17] '*How to Change the Name of a Private Limited Company*' TaxGuru (26 September 2024) https://taxguru.in/?p=1025272 accessed 25 September 2026.

approval, though it does not alter the substantive requirement that a proposed name must clear the tests of identity, similarity and undesirability set out elsewhere in the Act.[18]

A new legal entity is not created by a name change. Contracts, assets, liabilities, legal proceedings, and obligations of the company remain unchanged. In Antony v. Tata Tea Ltd.[19], the corporate continuity principle was taken into consideration. Therefore, a name-change procedure preserves the company's legal identity while protecting the public from uncertainty.[20]

3.3 Alteration of the Registered-office clause

A registered office serves as the company's official address for correspondence and notices. The company must keep an office that can receive and acknowledge messages in accordance with Section 12[21]. Depending on the geographical extent of relocation, there are different procedures for moving the registered office.

A shift within the boundaries of the same city, town, or village is typically governed by Section 12 and the relevant regulations and does not typically necessitate changing the MoA. Moving within the same state may necessitate a board resolution, member consent, and further regulatory compliance if the move alters the Registrar's or Regional Director's jurisdiction.[22]

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Moving from one State or Union territory to another is the most significant case. A special resolution and prior Central Government approval are required under Section 13(4)[23]. The process is outlined in Rule 30 of the Companies (Incorporation) Rules, 2014, which includes submitting a list of creditors, publishing notice, serving notice on creditors and debenture holders, filing the application in the required form, and taking objections into consideration.

[18] Ministry of Corporate Affairs, Government of India, Rajya Sabha Unstarred Question No 1655 (answered 10 December 2024) https://rsdebate.nic.in/bitstream/123456789/752057/1/PQ_266_10122024_U1655_p202_p203.pdf accessed 25 September 2026.
[19] Dinesh Gupta and Riddhi Agarwal, '*Kerala High Court Rules for Tata Tea in Munnar Property Dispute: Upholds Its Right to Reclaim Possession*' (IndiaLaw LLP, 14 August 2025) https://www.indialaw.in/blog/commercialcorporate/kerala-hc-backs-tata-tea-in-long-running-munnar-property-row/ accessed 25 September 2026.
[20] Prabha, D. (2026). Company name change: MCA procedure, forms & timeline 2026.
[21] The Companies Act, 2013, § 12 (India).
[22] Prabha, D. (2026). How to alter MOA or AOA of a company in India. IncorpX.
[23] The Companies Act, 2013, § 13(4) (India).

According to Section 13(5)[24], the approving authority must take into account whether creditors have approved the alteration, if there are sufficient arrangements in place for the fulfillment of obligations and debts, and whether suitable security has been offered. The interests of other interested parties may also be taken into account by the authority. An interstate move is therefore more than just a managerial decision. It could alter regulatory jurisdiction, make procedures less accessible, and raise the possibility that the company is trying to disassociate itself from creditors or enforcement authorities.

In Orient Paper Mills Ltd. v. State, the High Court's ruling emphasized that alteration powers must be exercised bona fide and for the company's overall benefit; they cannot be used arbitrarily or to undermine justifiable shareholder or public interests.

3.4 Alteration of the objects clause

A special resolution can alter the objects clause. The company must file the resolution and altered memorandum with the Registrar, and the alterations become effective upon registration. The purpose of requiring a special resolution is to ensure that a significant change in the company's business direction is not determined only by directors or by a simple majority vote.

Special protection exists where a company has raised money from the public through a prospectus and unutilised funds remain. When a company raises money from the public through a prospectus and there are unused funds, there is special protection. According to Section 13(8)[25], the company must give dissident shareholders a chance to exit in the specified way. The details of the special resolution, along with the explanation for the alteration and the amount of money used or left unused, must also be posted on the company's website and published in a newspaper that is circulated in the area where the registered office is located (one in English and one in a vernacular language). The risk that this provision is designed to guard against is not merely hypothetical. In May 2025, the Securities and Exchange Board of India debarred an SME-listed company and its promoters after finding that a substantial share of the funds raised from the public had been diverted away from the disclosed objects of the issue, and the regulator indicated that it was examining several other similarly placed companies for comparable conduct. Such enforcement

[24] The Companies Act, 2013, § 13(5) (India).
[25] The Companies Act, 2013, § 13(8) (India).

action illustrates why the law treats the diversion of publicly raised capital as a matter warranting an exit right and enhanced disclosure, rather than leaving the issue to be addressed only after the funds have already been spent.[26]

This clause acknowledges that public investors may have subscribed based on a declared commercial objective. Without providing investors with relevant information and an exit strategy, businesses shouldn't be allowed to raise funds for one project and then materially divert the funds to another. The clause makes the cost of adaptation more clear in situations where investor expectations are very significant, but it does not restrict commercial adaptation.

The objects clause must also be interpreted in light of the doctrine of ultra vires. A proposed object must be adequately related to the company's lawful objectives and cannot be presented as a means of approving unlawful activities. The alteration must therefore comply not just with Section 13, but also with general principles of corporate purpose, public policy, and fiduciary responsibility.

3.5 Alteration of the capital clause

Section 61 primarily governs alterations to authorized share capital. A company limited by shares may increase its authorized share capital, consolidate and divide its capital into shares of a larger amount, convert fully paid shares into stock and reconvert stock into shares, subdivide shares into smaller amounts, or cancel unissued shares, all subject to the articles and shareholder approval.

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Section 61 must be read with Section 64[27], which mandates that notice of the alteration be submitted with the Registrar within 30 days. As a result, an alteration of authorized capital is not regarded as a typical Section 13[28] alteration. The distinction acknowledges that capital structure is governed by a specific statutory scheme and avoids procedural overlap.

An increase in authorized capital does not inevitably dilute current members or result in the issuance of new shares. It merely expands the ceiling within which shares may subsequently be issued. Provisions pertaining to further share capital issuance, private placement, rights issues, preferential allotment, and relevant SEBI requirements must all be followed in the succeeding

[26] Khushboo Tiwari, '*Sebi Bars Synoptics, Promoters over IPO Fund Misuse, Probes 20 SMEs*' Business Standard (Mumbai, 6 May 2025) https://www.business-standard.com/markets/news/sebi-bars-sme-synoptics-merchant-banker-over-ipo-fund-diversion-125050601413_1.html accessed 25 September 2026.
[27] The Companies Act, 2013, § 64 (India).
[28] The Companies Act, 2013, § 13 (India).

offering. Therefore, rather than relying just on Section 13, stakeholder protection is implemented through a number of interconnected regulations.[29]

4. Procedural Framework for Alteration

Members must give their consent through a special resolution in order to amend any of the MoA's clauses, with the exception of the capital clause. However, as specified in section 61, members' approval through ordinary resolution is necessary in order to alter the authorized share capital. The following are the steps to alter MoA -

I. **Board Meeting (Section 173(1))[30]:** The process starts off with a meeting of the Board of Directors at which the necessity of amending the MOA is discussed and approved. The board then passes a resolution requesting a general meeting (this can be an Annual General Meeting (AGM) or an Extraordinary General Meeting – (EGM)) in order to put the changes before the shareholders.

II. **Notice of the General Meeting (Section 101[31]):** Once the board has approved the suggested changes, it will send off a formal notice to all the company's shareholders, auditors, and directors. This notice has to be dispatched at least 21 days prior to the general meeting and will contain the agenda for the meeting, the proposed amendments, as well as the date, time, and place of the meeting.

III. **Explanatory Statement:** Together with the notice, an explanatory statement has to be included to give the reasons for the amendments being proposed and to explain their effect on the company.

IV. **General Meeting:** At the scheduled date the company holds its general meeting (EGM or AGM) at which the proposed amendments are put before the shareholders, in order to approve them a special resolution (Section-114(2)[32]) must be passed, this requiring the support of at least 75 per cent of the members who are present and voting.

V. **Filing of the documents to the Registrar of Companies (RoC) (Section 117[33]):** after the special resolution has been passed, the amended document together with the special

[29] Kapoor, G. K., & Dhamija, S. (2026). *Comprehensive textbook on company law* (pp. 106–131). Taxmann.
[30] The Companies Act, 2013, § 173(1) (India).
[31] The Companies Act, 2013, § 101 (India).
[32] The Companies Act, 2013, § 114(2) (India).
[33] The Companies Act, 2013, § 117 (India).

resolution must be submitted to the RoC within 30 days. This is achieved by filling the appropriate forms, along with Form MGT-14, and paying any required fees together with the supporting documents.

VI. **Approval of the Registrar:** The RoC will examine the documents which have been submitted, and when they are satisfied will give their approval of the changes. The amendments will then be officially registered and the alterations will come into effect on the date of registration.[34]

VII. **Updating Company Records:** When the alterations have been recorded, the amended MOA must be retained at the company's registered office and all statutory records have to show the changes. The altered MOA should be made available for stakeholders to inspect.[35]

5. Stakeholder Protection with regard to Alteration of MoA

5.1 Shareholders and minority shareholders

Shareholders' principal protection is secured through the requirement of a special resolution. The voting threshold guarantees that any fundamental change requires more than just a simple majority of members present and voting. Furthermore, notice and the explanatory statement are crucial, as meaningful voting depends on members being adequately informed. Under Section 13(8)[36], the exit opportunity offers greater protection to dissenting shareholders, especially when unutilised public funds are involved. This aligns with the principle that an investor who subscribed to a specific project should not be forced to stay invested if the company significantly changes the purpose for which the funds were raised.

However, the machanism of special-resolution has several drawbacks. Despite objections from a minority opposition, a controlling shareholder may have enough votes to support the alteration. The fact that an alteration is procedurally valid does not imply that it is substantively fair. A majority might alter the registered office, reorganize the company, or modify the objects clause in a way that subtly reduces the value of minorities.

[34] Mathur, R. (2025, November 3). How to amend MOA and AOA? *Finology Legal.* Retrieved from https://finologylegal.in/blog/legal-news/alteration-of-moa-aoa-in-india
[35] Singh, U. (2020, July 11). Procedure for alteration of memorandum of association. *TaxGuru.* Retrieved from https://taxguru.in/company-law/procedure-alteration-memorandum-association.html
[36] The Companies Act, 2013, § 13(8) (India).

Sections 241[37] and 242[38] concerning oppression and mismanagement may provide remedies where alteration powers are used for an improper purpose. Even if the resolution was passed, an alteration made with the intent of shutting out minority members, lowering their economic rights, transferring assets to a related corporation, or entrenching control may be contested.[39]

5.2 Creditors

In general, creditors do not vote on an alteration of the MoA. Their protection is thus more limited and contingent on the nature of the proposed change. If the objects of the company is altered, it may resukt in an increase business risk for creditors or if there is a change regarding capital, it may alter how creditors see the company's structure or if the registered office is shifted, the creditors may find it harder to send notices start actions or keep track of the company.

Section 13(5)[40] clearly acknowledges that creditors have a stake when the company shifts its registered office, across state lines. The approving authority might require creditor consent, the discharge of debt or a suitable security. Rule 30 further protects creditors by requiring notice advertising the change publishing creditor lists and giving creditors the chance to file objections.

For other alterations, creditors' protection is less direct. Creditors can count on contractual covenants, security interests, insolvency law, fraudulent transfer rules and remedies for wrongful or fraudulent conduct. However, these remedies are often an ex post remedy. A more preventive disclosure model would allow creditors to evaluate whether a proposed change materially affects the risk profile of the enterprise.

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5.3 Debenture-holders

Debenture-holders have a different position as they are specifically mentioned with creditors in the registered-office alteration regulations. They may be affected by a shift in jurisdiction, the enforcement of security, the availability of corporate records and the location of proceedings.

The terms of the company's trust deed and debenture may impose additional restrictions on alterations affecting security or repayment. Regulatory scrutiny and notice is particularly important

[37] The Companies Act, 2013, § 241 (India).
[38] The Companies Act, 2013, § 242 (India).
[39] Prasad, M. D. (2018). Companies Act, 2013: Incorporating stakeholder theory approach into the Indian corporate law. *Statute Law Review*, 39(3), 292–302.
[40] The Companies Act, 2013, § 13(5) (India).

if a registered office alteration could prejudice enforcement or conceal the company's operational location. Debenture-holders should therefore be provided with clear information as to the reasons for the change, outstanding obligations and arrangements for continued enforcement of their rights.

5.4 Employees and other stakeholders

A substantial change to a company's objects or a change of its registered office may have an impact on the employees, suppliers, customers, local communities and regulators. Redeployment, redundancy, or changes to terms and conditions of employment may affect employees. Communities may be affected when a company enters or exits an environmentally sensitive activity, and suppliers may face altered payment risks.

The Companies Act, 2013 reflects an overall shift to a more stakeholder-orientated form of corporate governance. Section 166[41] requires a director to act in good faith for the benefit of members of the company as a whole as well as in the best interests of the company's employees and shareholders, the community and for the protection of the environment.

However, the protection afforded to employees and other stakeholders under Section 13 is largely indirect. Employees and other stakeholders do not have a statutory right to vote regarding alteration of a company's registered office, object before the approving authority in every case or demand an exit. Their interests must be represented through director duties, labor law, environmental law, contractual rights, regulatory approvals, and oppression or mismanagement lawsuits. This indirect protection is especially precarious given the underlying structure of India's workforce. The Periodic Labour Force Survey for 2023-24 found that 58 per cent of regular wage or salaried employees had no written job contract, and that a comparable proportion lacked eligibility for paid leave or social security benefits, leaving a majority of employees without even the baseline contractual documentation through which the risks of corporate restructuring might otherwise be identified and negotiated.[42]

It's crucial to understand the difference between direct and indirect protection. In alteration with regard to interstate registered office, creditors and debt holders are given direct procedural recognition. When unused prospectus funds are involved, public investors are directly protected.

[41] The Companies Act, 2013, § 166 (India).
[42] Ministry of Statistics and Programme Implementation, Government of India, *Periodic Labour Force Survey, Annual Report: July 2023-June 2024* (2024).

In contrast, communities and employees frequently rely on industry-specific regulations and general fiduciary norms. Stakeholder-oriented concepts may exist formally, but their efficacy depends on monitoring, enforcement, and easily accessible grievance procedures, according to academic literature.[43]

6. Judicial Approach to Alteration of the Memorandum

One of the most important case regarding alteration of MoA. is ***Ashbury Railway Carriage & Iron Co. Ltd. v. Riche***[44] wherein it was held that the objects clause does not merely express an intention to carry on business, rather it acts as a legal limit on the company's capacity. Any act going beyond the objects is ultra vires and cannot be validated even if all the shareholders agree. The case thus forms the historical basis for regarding a change to the objects clause as a constitutional act and not as an ordinary managerial decision.[45]

In the case of ***A. Lakshmanaswami Mudaliar(Dr.) v. LIC***[46], the Hon'ble Supreme Court applied the doctrine to charitable expenditure. When considering the directors' authority to make payments for charitable or public purposes it was looked at in the light of the company's own objects. The Court opposed the view that a general power to make charitable payments allowed donations which were not related to the company's corporate purposes. The case serves to protect the company's members and creditors against the use of corporate funds for purposes outside the company's constitutional framework.

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The case of ***State of M.P. v. Orient Paper Mills Ltd.***[47], is pertinent to the principle that alteration powers must be exercised in good faith for the advantage of the company as a whole. In examining the proposed transfer of the registered office, the court regarded the company's object and the effects upon the public as being relevant. The ruling indicates that a formally valid alteration can

[43] Sarkar, A. (2016). The fundamental documents of the company under the Companies Act, 2013. *Law Mantra*, 3(12).
[44] *Ashbury Railway Carriage & Iron Co. v. Riche*, LR 7 HL 653 (1875).
[45] Joshi, I. D. (2022). The study of doctrine of ultra vires: Ashbury Rly Carriage & Iron Co Ltd v. Riche. *Indian Journal of Law and Legal Research*, 4, 1.
[46] *A. Lakshmanaswami Mudaliar (Dr.) v. LIC*, 33 Comp Cas 420 (1963).
[47] *State of M.P. v. Orient Paper Mills Ltd.*, 2 SCC 77 (1977).

still be challenged if it is intended to avoid regulatory consequences or to prejudice legitimate interests.[48]

The recent rulings show that the courts are still giving attention to statutory procedure. In the case of ***Jeel Kandla Service v. Union of India***[49], the interpretation of Section 13[50] and Rule 30[51] was examined in the context of shifting of the registered office between states. The ruling makes it clear that rules which have been delegated and which deal with notices, the protection of creditors and the regulatory procedure are binding and must not be disregarded simply because the members have passed a special resolution.

In the case of ***Jetking Infotrain Ltd. v. BSE Ltd***.[52] the Securities Appellate Tribunal (SAT) upheld the Bombay Stock Exchange's (BSE) decision to reject Jetking Infotrain Limited's application to list shares issued through a preferential allotment, ruling that investing preferential funds in virtual digital assets (VDAs) before the proper amendment of its main objects clause was *ultra vires* (beyond the powers of) its MoA.

The Jetking dispute is unlikely to remain an isolated illustration. Several other Indian listed entities have since signalled an intention to deploy treasury funds in virtual digital assets, a trend that market commentators have described as an early Indian counterpart to the corporate Bitcoin-treasury strategies first popularised abroad. As more companies pursue such strategies without first securing a certified amendment to their objects clause, the ultra vires principle applied in Jetking is likely to recur as a live compliance issue rather than remain a one-off dispute.[53]

As a result, a court or a regulator may consider not only whether a resolution had been passed but also whether the alteration is in line with the MoA of the company and securities-law framework.

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[48] Dhyeya Law. (n.d.). State of M.P. v. Orient Paper Mills Ltd. Retrieved from https://www.dhyeyalaw.in/state-of-mp-v-orient-paper-mills-ltd

[49] *Jeel Kandla Service v. Union of India*, 2026 SCC OnLine Cal 1443.

[50] The Companies Act, 2013, § 13 (India).

[51] The Companies (Incorporation) Rules, 2014, Rule 30 (India).

[52] *Jetking Infotrain Ltd. v. BSE Ltd.*, Securities Appellate Tribunal, Order dated 8 May 2026, as reported in Shilpa Soman, '*SAT Upholds BSE Rejection of Jetking Share Listing Plea over Crypto Investments*' LiveLaw (9 May 2026) https://www.livelawbiz.com/securities-law/sat/sat-upholds-bse-rejection-of-jetking-share-listing-plea-over-crypto-investments-533544 accessed 25 September 2026.

[53] '*India's 'MicroStrategy' Jetking Faces First AGM since SAT Ruling on Bitcoin-Funded Shares*' CryptoTimes (24 September 2026) https://www.cryptotimes.io/2026/09/24/indias-microstrategy-jetking-faces-agm-after-sat-ruling/ accessed 25 September 2026.

7. Critical Analysis: Corporate Flexibility v. Stakeholder Protection

The Companies Act, 2013 adopts a differentiated model of protection. Alterations which involve only ordinary constitutional adjustments mainly have to be approved by the shareholders and then filed and registered. Alterations that involve greater risk are given extra protection. While alteration to a company's name require identity verification and, where appropriate, the approval of the Central Government. When a company shifts its registered office between states, protection must be provided for its creditors and debenture-holders. If the change of object involves unutilised public funds, it is necessary to publish the change and give shareholders an opportunity to exit. Modifications to the capital are governed by a special statutory framework.

The model makes good commercial sense since businesses need to be able to diversify, reorganise and react to market conditions without having to obtain judicial approval for each business decision. If it were necessary to have the unanimous consent of all parties or extensive creditor approval in order to make normal changes, this would hinder corporate efficiency. Moreover, special resolutions do offer a kind of corporate democracy while at the same time keeping the company's ability to adapt.

The model is by no means complete, since a special resolution might take into account voting power rather than reaching an informed consensus. It is possible for large institutional or controlling shareholders to approve a change which substantially alters the risk borne by minority shareholders. Disclosure might be technically in line with the requirements but in fact inadequate if it simply repeats general objectives without explaining the financial, operational and governance consequences. Regulatory practice has itself acknowledged this kind of deficiency in an adjacent context. In February 2025, the Securities and Exchange Board of India mandated a detailed, standardised minimum-disclosure format for related-party transactions after finding that the general disclosures previously required were inadequate given the complexity of modern corporate transactions, a recognition that mirrors the concern that a generic explanatory statement may satisfy the letter of the law while telling shareholders very little of substance.[54]

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[54] Cyril Amarchand Mangaldas, '*RPT Disclosure Standards: Regulator's Ongoing Quest for Balance*' (Cyril Amarchand Blogs, March 2025) https://corporate.cyrilamarchandblogs.com/2025/03/rpt-disclosure-standards-regulators-ongoing-quest-for-balance/ accessed 25 September 2026.

The situation of non-member stakeholders is even more insecure. While the explicit protections for creditors and debenture-holders are most clearly seen in the case of changes to registered offices between states, employees, consumers, and communities generally have no direct statutory right of voice, their protection relies upon the duties of the directors and upon external legislation, which might not offer timely or effective remedies.

The real question therefore isn't whether the Act allows for alteration, but whether the procedure for alteration enables the people concerned to assess the situation properly and challenge any abuse before irreversible harm takes place. Although registration safeguards third parties by keeping the public records accurate, the act of registration does not by itself ensure that commercial fairness has been established. Regulatory approval can only be significant if the authority examines the substance rather than merely checking that the necessary documents comply.

The framework largely achieves a balance between flexibility and protection, but functions most effectively when directors act transparently, shareholders are given all the relevant information and regulators actively look into any possible bias. It is still necessary to have judicial doctrines since these prevent the formal procedures for amendment from being used as a way of avoiding the company's constitutional objectives or for oppressing minority shareholders.[55]

8. Gaps and Suggestions for Reform

In the first instance, greater disclosure should be demanded in cases where a change considerably alters the company's business model, and the explanatory statement should specify the impact on revenue sources, assets, debt obligations, employee arrangements, regulatory permissions, minority value and any pending litigation.

Second, the law ought to make clear what is meant by a "material" change to objects. If the proposed change leads to a completely new industry, alters the main source of income or results in a considerable amount of financial or regulatory risk, then it should attract greater scrutiny.

[55] Raj, M. (2024). Corporate governance and protection of stakeholders' rights and interests. *Indian Journal of Law and Legal Research*, 6(4), 977–994.

Thirdly, minority shareholders should have stronger protection in cases where a change has effects similar to a change of control or a compulsory exit. In exceptional cases, an independent valuation, approval by the majority of the minority, or a limited exit mechanism could be considered.

In the end, attention should be given to the substance of the matter. The Registrar and the authorities responsible for approval should have the power to check whether the change is bona fide, whether the disclosures are complete and whether the proposal is linked to a genuine corporate objective. Such reforms would maintain flexibility at the same time as reducing the chance that adherence to procedures takes the place of protection for stakeholders.

9. Conclusion

The 2013 Companies Act does not consider the Memorandum of Association (MoA) to be a rigid document, it acknowledges that companies may have to make changes to their constitutional structure in order to meet their changing commercial, financial and operational requirements. Section 13 sets out the general procedure for altering the MoA, and Sections 4, 61 and 64 of the Act, together with the Companies (Incorporation) Rules, 2014, specify the additional requirements in respect of particular clauses and situations.

The approach taken by the law varies according to the kind of alteration suggested. Even though a special resolution is usually necessary, some kinds of change are subjected to extra safeguards. For instance, altering the company's name, moving the registered office from one state to another, changing the objects of the company when public funds have been raised, and modifying the share capital all have their own specific procedural and regulatory requirements. This shows the legislature's effort to strike a balance between corporate autonomy and the requirement for accountability.

Protection for stakeholders is offered, but the degree of effectiveness varies from category to category. Shareholders are given protection by means of notice, voting rights, disclosure requirements and, in some instances, by having the possibility of exiting the company for public investors. Creditors and debenture-holders have explicit protection, especially in the case where the company wishes to move its registered office from one State to another. Nevertheless, employees and other affected stakeholders do not enjoy the same level of direct protection under

the MoA-alteration framework, their interests are mainly secured by general corporate duties, labour laws and other legislation specific to the sector.

It has also been made clear by judicial decisions that the authority to alter a company's constitutional documents is by no means without limits. Corporate flexibility must remain within the scope of the company's constitutional purpose, allow for a bona fide exercise of power and provide protection against oppression or unfair prejudice. Cases such as Ashbury Railway Carriage and Iron Co. v. Riche, A. Lakshmanaswami Mudaliar v. LIC of India and Orient Paper & Industries Ltd. demonstrate that directors and the majority of shareholders cannot exercise their alteration powers arbitrarily or for purposes which go against the company's legitimate interests that was mentioned in the MoA. Likewise, more recent rulings under Section 13 stress that compliance with the procedures, especially as regards the objects clause, is not just a matter of form but has legal importance.

In principle, the statutory safeguards are well designed, but in practice their effectiveness will depend on the extent to which they are genuinely put into action. There is a possibility that the special resolutions, the explanatory statements and the filing requirements could end up as mere formalities rather than as real safeguards. The law therefore needs to allow companies to make adaptations while at the same time ensuring genuine disclosure, promoting informed participation by shareholders, securing adequate regulatory oversight and providing accessible remedies. Particularly important in such cases is having stronger protection when a change greatly alters the company's business identity or could have an adverse effect on minority shareholders, creditors, employees or other non-member stakeholders.[56] The practical value of any such reform is, however, constrained by the capacity of the forums meant to enforce it. The Economic Survey 2025-26 recorded a pendency of approximately 30,600 cases before the National Company Law Tribunal nationally and estimated that clearing this backlog at the current rate of disposal would take close to a decade, a constraint that bears directly on petitions for oppression and mismanagement filed under Sections 241 and 242. Strengthening substantive safeguards for

[56] Kapoor, G. K., & Dhamija, S. (2026). *Comprehensive textbook on company law* (pp. 106–131). Taxmann.

minority shareholders and other stakeholders is therefore likely to yield limited benefit unless it is accompanied by a corresponding expansion of tribunal capacity.[57]



[57] SN Thyagarajan, '*NCLTs Will Take Nearly 10 Years to Clear Pending Cases at Current Rate: Economic Survey*' Bar and Bench (29 January 2026) https://moneylife.in/article/nclts-will-take-nearly-10-years-to-clear-pending-cases-at-current-rate-economic-survey/79503.html accessed 25 September 2026.