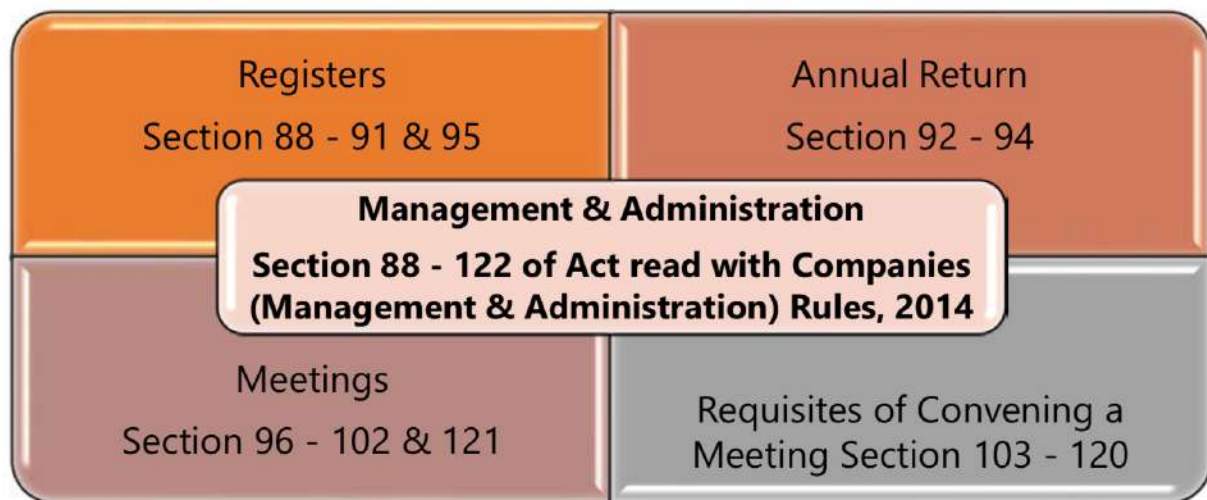
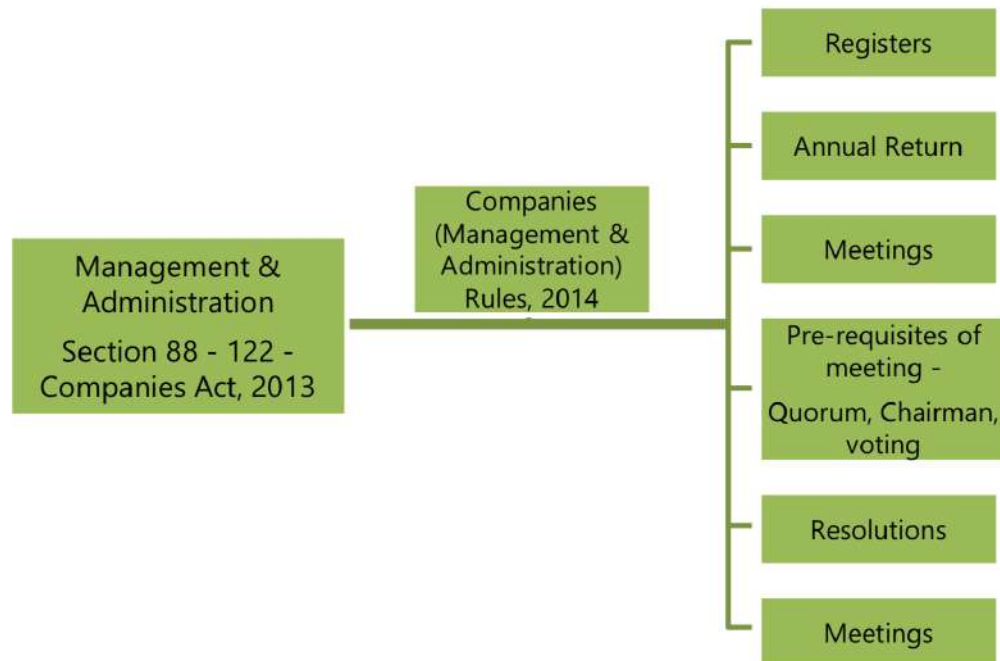


# Chapter 7 - Management and Administration

Fresh DPO  
7 days  
Study

[Sec 88 - 122]



MEETING:

Annual General  
meetings

Extra-ordinary  
General Meetings

[AGMs]



once in each year

↳ CY or FY?

[EOGM]



Any meeting other than AGM

Sec 96: Annual General Meeting:

[Except for OPC]

① Frequency of AGM:

Every company shall hold AGM:

- Once in each year [calendar]
- Not more than 15m shall lapse - 2 AGM
- First AGM - within 9m of end of first FY
- Subsequent AGM - within 6m of end of FY

Note: ROC may, for any special reasons →  
Extend time for holding AGM (other than first AGM) for upto 3 months

Example:

	<u>Aud</u>	<u>Bud</u>	<u>Cud</u>
Date of CoI	15/04/22	31/12/22	15/01/23

Last date for:

First AGM	31/12/23	31/12/23	31/12/2024
Subseq. AGM	30/09/24	30/09/24	30/09/2025.

Example 2:

valid?

Co1 → 15/04/22

First AGM → 30<sup>th</sup> Apr 2023

Yes

Second AGM → 31<sup>st</sup> Aug 2024

No

(∵ Gap > 15m)

Note: If a company holds its first AGM within 9 months of end of FY, it would be okay if the co. could not hold AGM in its year of incorporation.

② Other details:

Timing <sup>(start)</sup> → Business hours [9AM - 6PM]

Day → Any date other than national holiday

- 26/01

- 15/08

- 2/10 → Holiday

Place → RO or other place within CTV of RO

↳ Exceptions:

Unlisted co: - Any place in India with consent of ALL members in advance

Govt co - RO/within CTV or any other place approved by CG

Sec 100: Extra-ordinary General Meeting:

- Any meeting other than AGM is → EOGM

## EOGM

Board

[Whenever it deems fit]



Place - Within India  
(NOT necessarily Ro)  
→ Except WOs of Co. incorporated in India

Example: Sec 16 requires OR

At requisition by SH



Co. having share capital



members

≥ 1/10th of total PUSC

Co. not having share capital



members

≥ 1/10th of total voting power

• Request by members:

Requisitionist

Request

- matters  
- signed

Co

↳ Date on which Co. receives such request



Date of valid requisition

3 months

45 days

21 days

Date of receipt of

Board shall call for meeting

Hold meeting



Requisitionist

valid request

meeting

(check summary notes)

may call for meeting themselves.

- Co. to reimburse expense of meeting
- Deduct such amt. from director's remuneration who defaulted in calling such meeting.

## \* Rule 17: Calling of EGM by Requisitionist:

- 21 clear days notice
  - writing
  - E-mode
- Notice to specify → Place, date, day & hour + Business to be transacted
- Signature in notice
  - All requisitionist or
  - By req. duly authorized
- ES not needed. Notice **MAY** disclose reason for proposed resolution
- Notice to whom?
  - Give to members whose name appears in RoM within 3 days of submission of valid requisition.
  - Requisitionist shall have right to receive list of members

- Mode to send notice
  - speed post
  - R.Post
  - E-mode

Note: Accidental omission → Not to invalidate proceeding of EGM

### LIC vs Escorts:

Requisitionist are not required to specify reason for business to be transacted in EGM. Just stating the matter is enough.

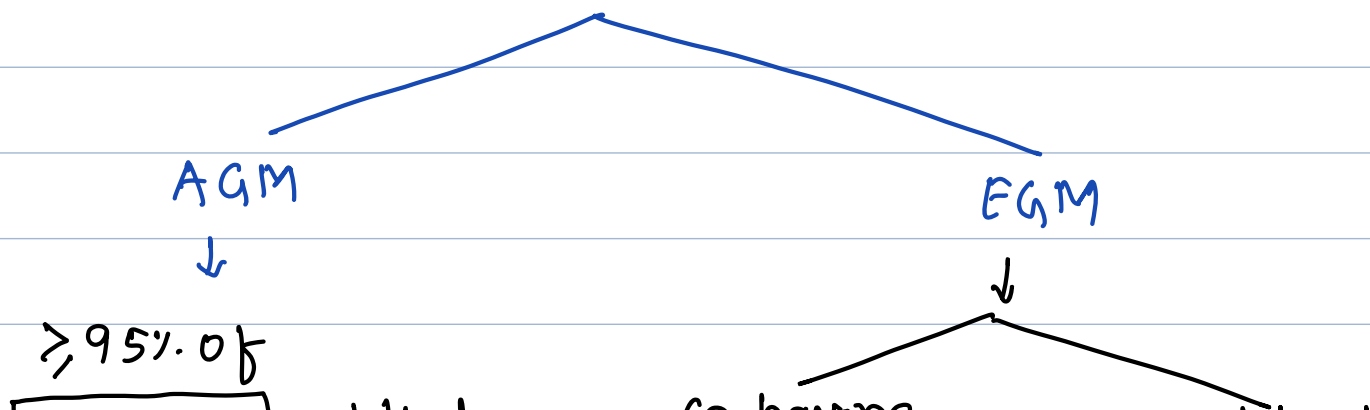
### Section 101: Notice of meeting:

- ① 21 clear days notice
  - writing
  - E-mode

↓  
Exclude → Date of meeting & date on which notice is ~~posted~~ serviced.

- ② Shorter period notice:

GM may be called by giving shorter notice if consent is given by:



members entitled  
to vote

co. having  
SC



Majority in  
numbers

(+)

≥ 95% of  
PUSC

co. not having  
SC

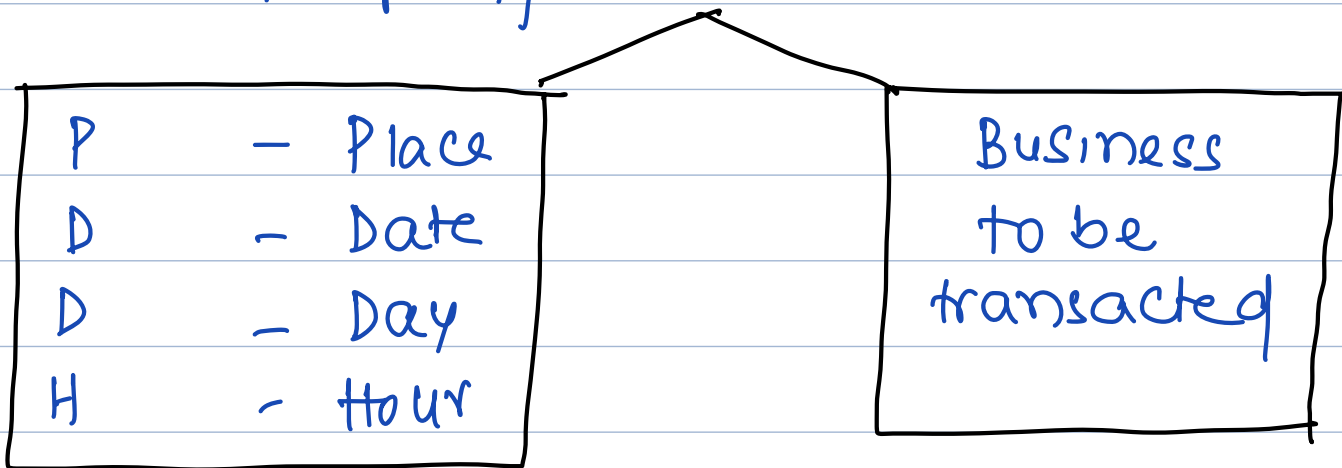


Members  
having

95% of total

(VP)

### ③ Notice to specify



### ④ Who will receive Notice?

Notice shall be given to: [MAD]

- Members (all the members)

CLR of deceased member or  
Assignee of insolvent members)

- Auditors

- Directors

Note: Accidental omission not to invalidate proceedings.

## ⑤ Sending notice via E-mode:

- Statutorily recognised (i.e. legally accepted)
- Notice may be sent via 

Text  
Attachment  
URL

←
- Email to be addressed to entitled person
- Co. to allow changing email IDs → Once in a Fy.
- Place notice on website as well.

## ⑥ Deemed service of notice

48 hours after such letter is posted  
[Refer sec 20]

## Sec 102: Statement to be annexed to notice:

①

### Business

Ordinary  
business

Special  
Business

↓  
following in **AGM**:

- consideration of **FS**
  - BOD & Auditor report
- Dividend
- Appointing director in place of retiring director
- **Appointing & fixing remuneration of auditors**

→ Everything else is  
Special  
business

	AGM	FOGM
Ordinary	FS/Div/Dir/Aud	None
Special	✓	✓

Note: Every special business requires explanatory statement in the notice

Every explanatory statement shall state material facts concerning each item of Special business:

General

Specific

disclosure

disclosure



### General disclosure:

→ Nature of interest — Financial  
— otherwise

↓  
of every — Director  
— KMP } Relatives  
— manager }

→ Other info. & facts → to enable to understand meaning & scope and take decisions.

Note: If as a result of non-disclosure, any benefit accrues to Promoter/Director/KMP



Hold in Trust of the co. (+) compensate the co. for such benefit

### Specific disclosure:

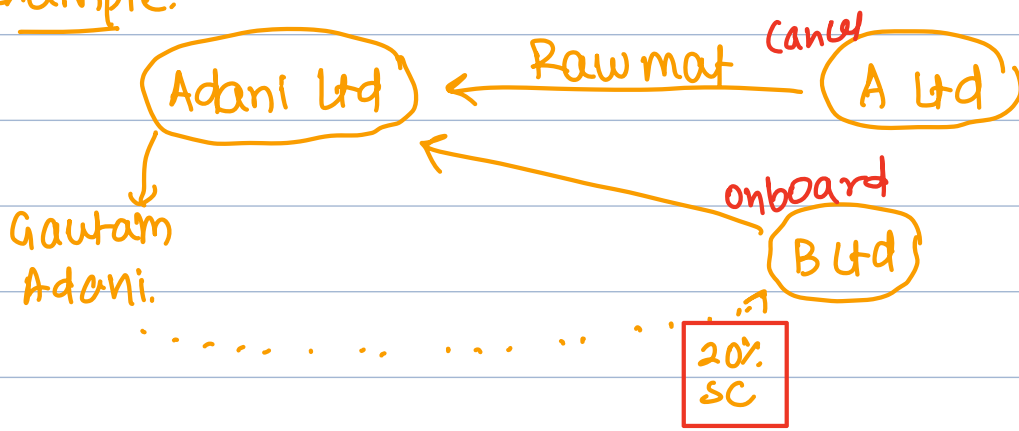
- Where special business related to any other co.
- then state the following in ES:



Extent of shareholding in the other co. of:

- Promoter
  - Director
  - manager/KMP
  - ~~Relatives~~
- } if not less than 2% of PUSC

Example:



\* contravention:

Every P/D/KMP → Penalty of:

₹ 50,000 or 5x benefit accrued } w.f. (H)

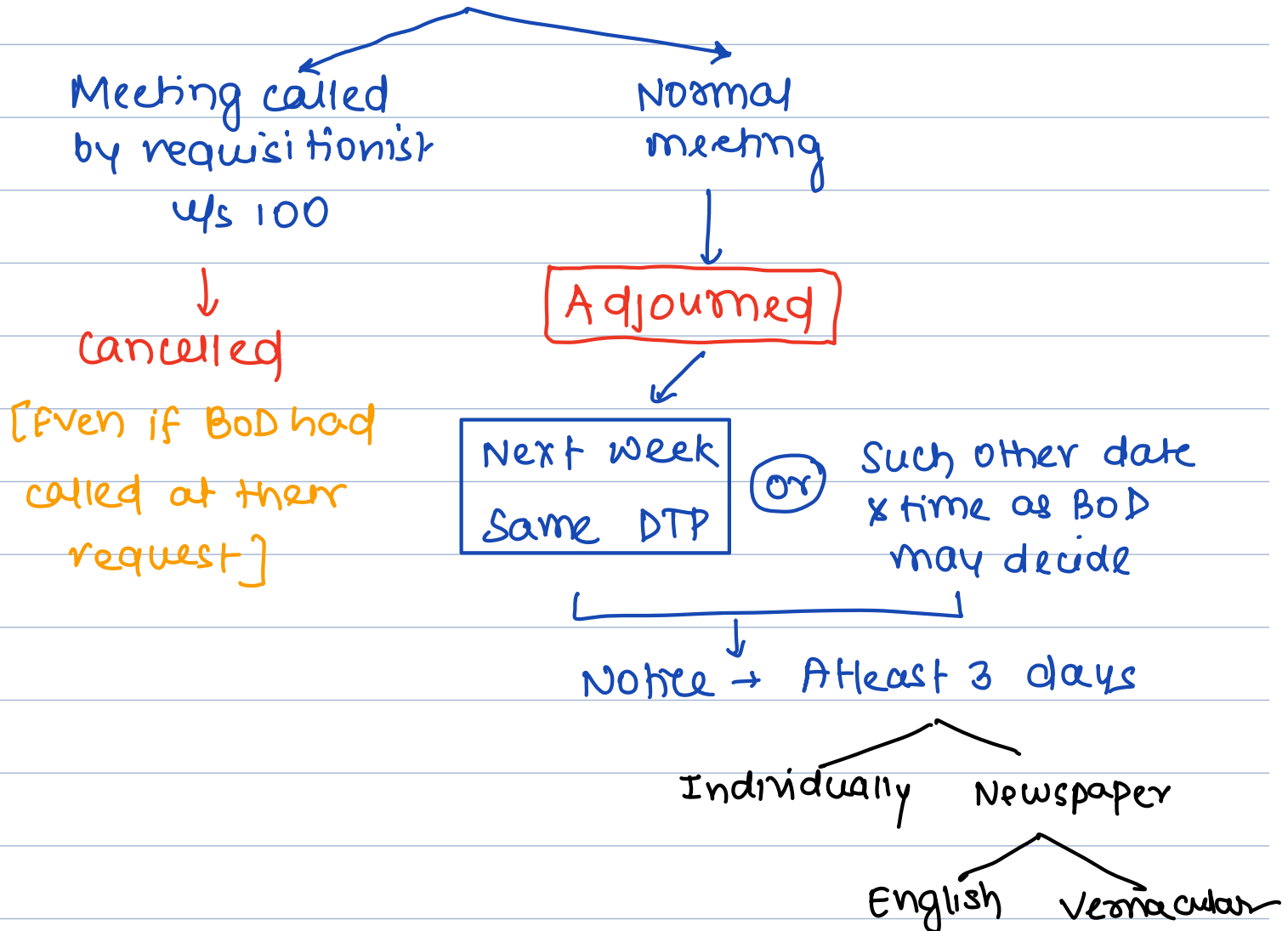
Section 103: Quorum:

① Unless AoA provides larger no., quorum shall be:

<u>Public co:</u>		<u>Private co:</u>
<u>NO. Of members</u>	<u>Personally present</u>	↓ 2 members personally present
0 - 1000	5	
1001 - 5000	15	
> 5000	30	

② Quorum to be checked within half n hour.

If quorum not met:



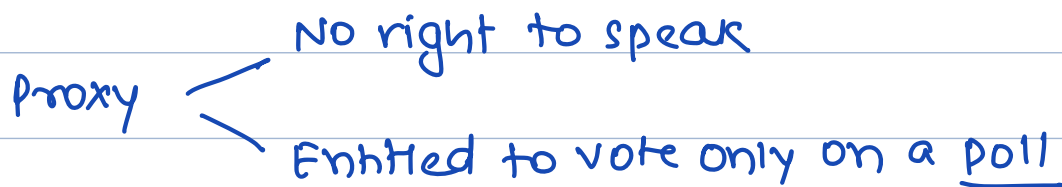
③ What if quorum is not present in adjourned meeting:

↓  
Members present shall be quorum

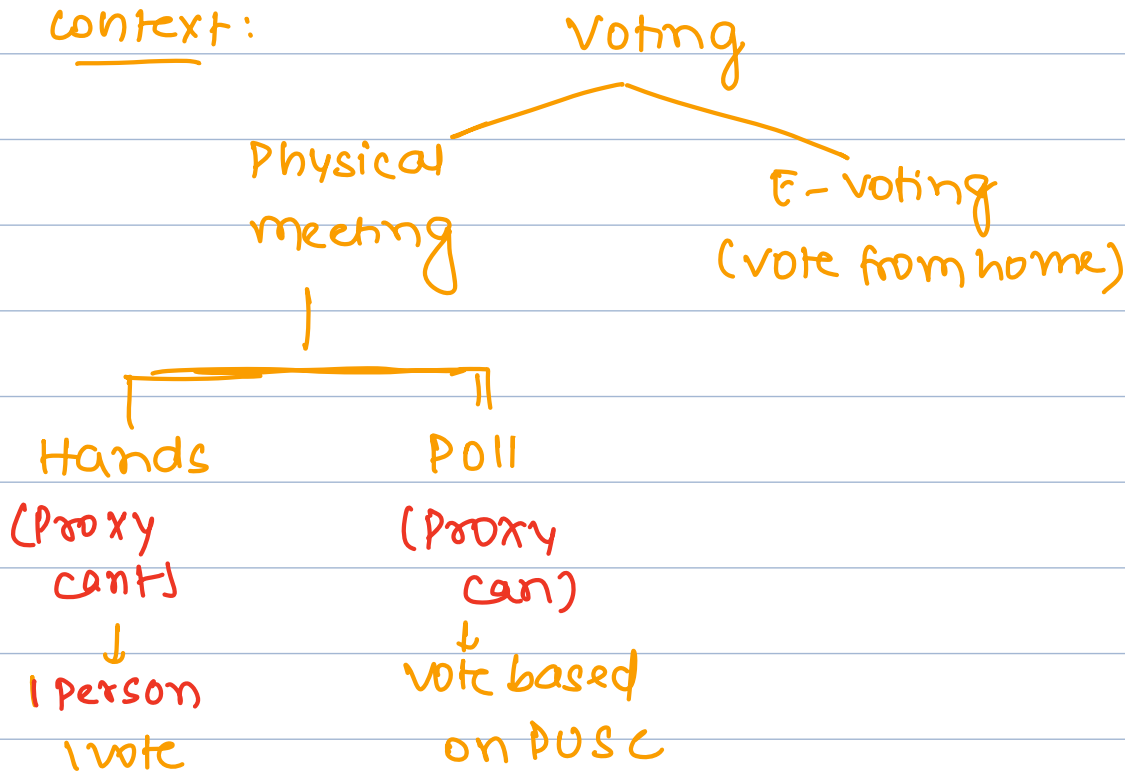
Quorum shall be present throughout the meeting

## Section 105: Proxy:

- ① Any member entitled to attend and vote shall be entitled to appoint another person as a proxy to attend and vote on his behalf

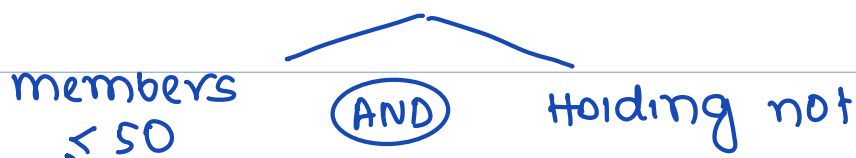


Context:



- ② Limit on proxy:

- A ~~member~~ person can act as proxy for:



> 10% of PUSC

- Where a member alone holds >10% of PUSC, single person may be appointed as proxy (such person can't be proxy for other members)
- Appoint proxy in form MGT-11
- In case of sec 8 cos. only members can act as proxy.

③ Every notice shall include

- members can appoint proxy &
- Proxy need not be a member.

④ Deposit Proxy form (MGT-11) → 48 hours Before meeting.

Proxy form shall be

- Stamped
- Dated

Signed

Individual



Appointer or  
duly auth.  
attorney

BC

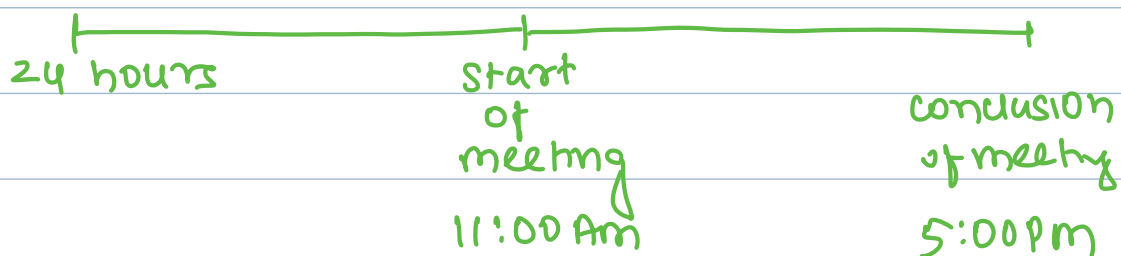
Sign  
under  
its seal

or

Auth.  
Officer

## ⑧ Inspection of proxy form:

- Every member entitled to vote - can inspect.
- Notice for inspection: **At least 3 days before meeting.**
- Inspect during:



During this period. During business hours

{ leave 5-6 lines  
we may/may not something

## Sec 112: Representation of President and Governor in Meeting:

Note:

- (1) shares held by CG, is held in the name of President
- (2) " " " " " " " " " " Governor

① President / Governor, if he is a member, may appoint a person as his ~~proxy~~ representative at any meeting

② Person so appointed shall be deemed to be a member same rights and powers as President / Governor could exercise.

## Sec 113: Representation of BC:

(1) A BC may:

By BOD resolution

↓  
Authorise a person to act as its rep. at a meeting — of members or of creditors

(2) Such rep. = Deemed member


## Sec 104: Chairman of meetings [CP]

[chairman vs chairperson]

① Unless AOA provides otherwise, members personally present shall elect one amongst themselves to be chairman by show of hands.

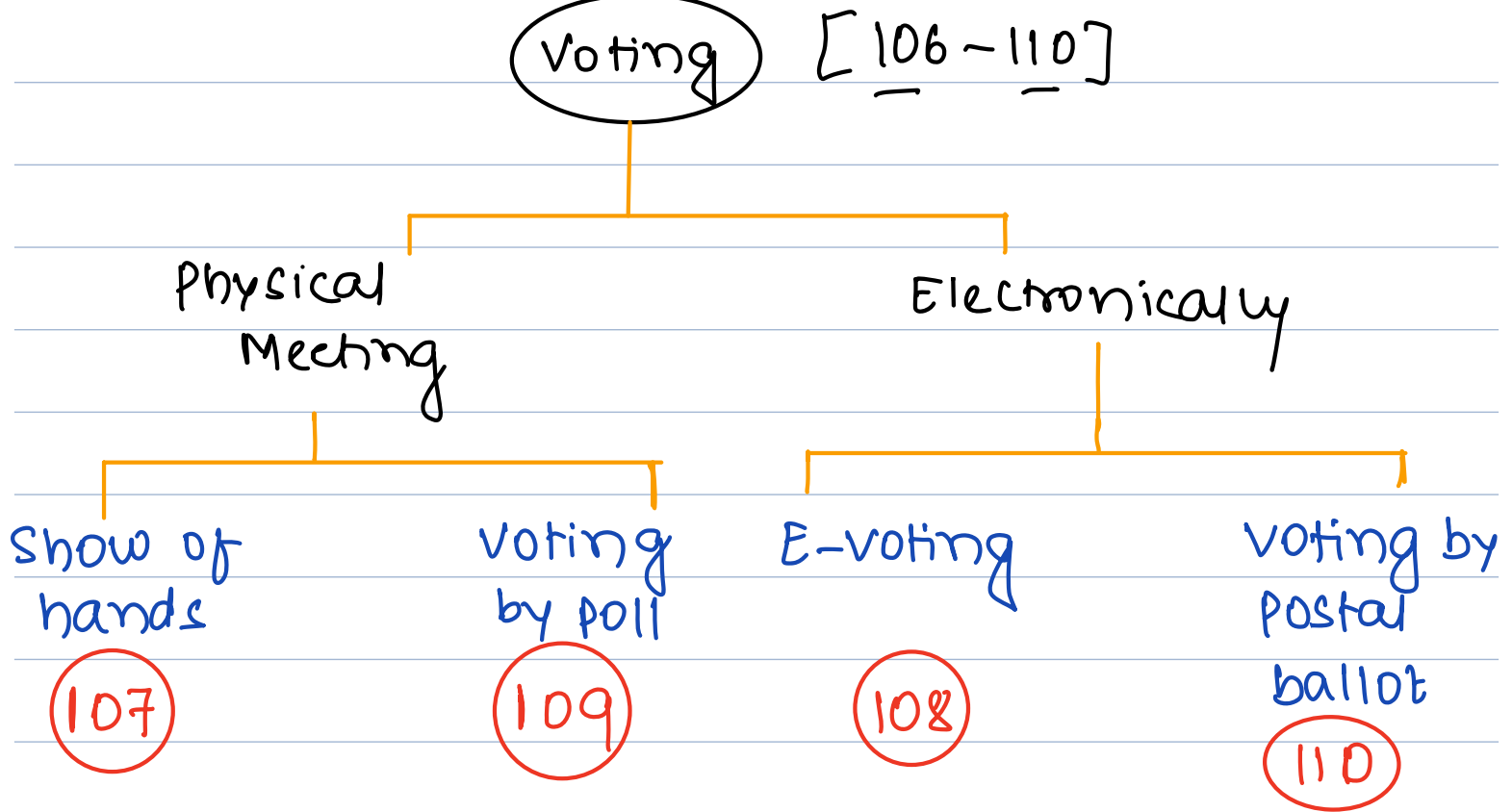
② Members <sup>1/1 from 10</sup> may demand poll for election of CP  
↓

In such case:

	
CP elected by show of hands shall continue until other chairperson is elected by poll	CP elected by poll to continue thereafter.

③ Duties of CP:

- Manage meeting + Ensure quorum
- Prima facie authority
- casting vote [second vote] only if empowered by AOA.



Sec 107: show of hands:

① unless Poll is demanded u/s 109  
or  
voting is carried electronically

↓

Resolution at GM shall decided by show of hands

② Conclusive evidence:

following shall be conclusive evidence that resolution has been passed:

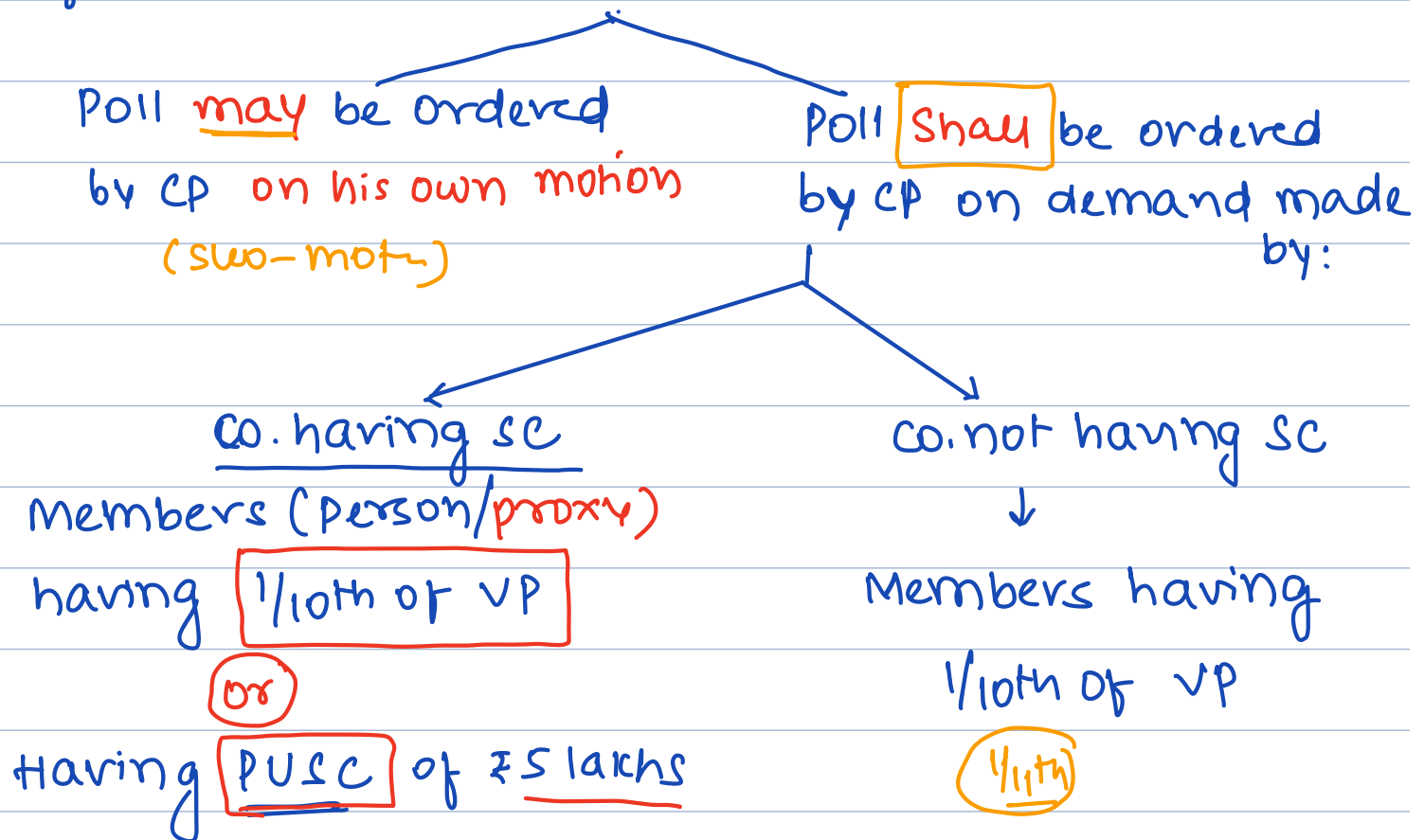
Declaration by CP of passing such resol<sup>n</sup>      Entry to that effect in the minutes of meeting

Q. Can a member abstain from voting?

A. Yes. He can vote in favour / against or he can also abstain from voting.

Sec 109: Demand for poll:

① Before or on declaration of result of show of hands:



② Demand may be withdrawn by person requesting for such poll.

### ③ When will the demand for poll be taken?

Poll demanded for:

- Adjournment  
or
- Appt. of CP



Forthwith  
(Immediately)

Any other  
question



Take within 48 hours  
from time it was  
demanded

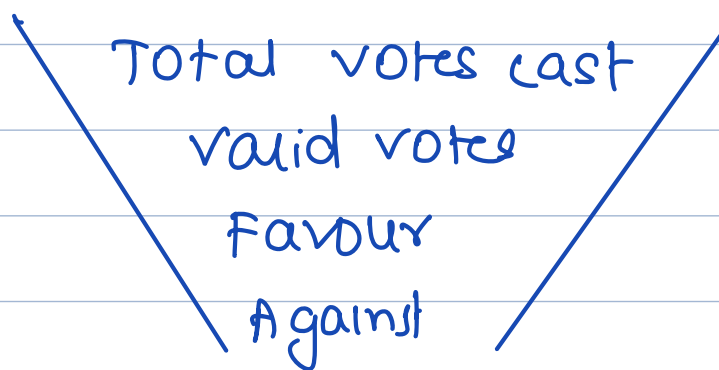
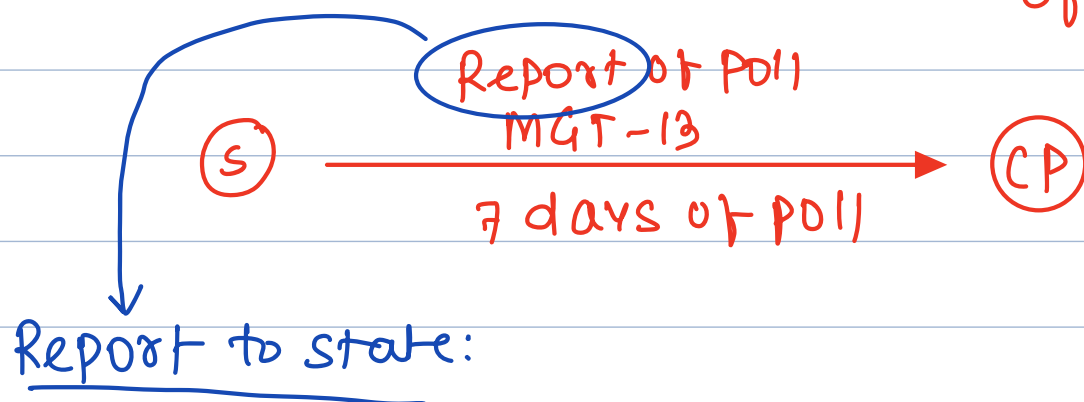
### ④ Scrutinize poll process:

- Provide to scrutinizer
  - Register of Members
  - Signs, attendance, proxy register.
  - All other relevant docs,
- Arrange Polling Paper (Form MGT-12) and distribute to
  - members (on case of joint holders, give it to first name)
  - proxies
- Keep records of PP received as response
  - ↳ by initialling it.
- Lock & seal empty polling box.
- If members & proxy voted → Disregard proxy's vote.

- Open polling box — in presence of 2 witnesses

- count votes + Report to CP

↳ MGT-13 (within 7 days of poll)



CP to declare results of voting

↳ countersign

Either himself  
person auth. by him in writing.

## Sec 106: Restrictions on voting rights

① AOA may provide that:

law by default does not restrict.  
only AOA can restrict.

NO member shall exercise voting rights on shares on which:

or any other

calls <sup>sum</sup> have not  
been paid

[calls in arrears]

co. has exercised  
any right of lien

② Except in above two cases, a company shall NOT prohibit a member from exercising voting right on any other ground.

③ On a poll being taken, member / proxy need NOT:

(a) Use all his votes, or

(b) cast in the same way all the votes he uses.

Sec 108: Voting through e-means:

① Following shall provide facility to vote by e-means:

a) Listed co.

b) Co. having  $\geq 1000$  members

provided that  $\left\{ \begin{array}{l} \text{Nidhi} \\ \text{Inst. investor} \end{array} \right\}$  Not required to provide such facilities

② Notice of meeting:

Member

R. Post

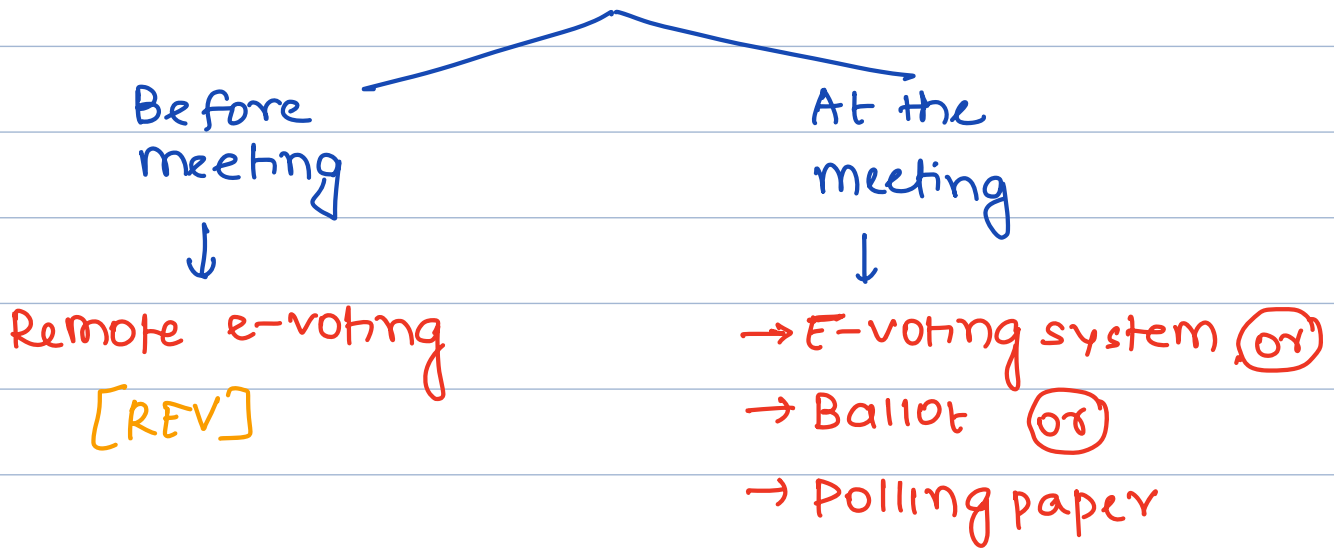
Send to

- Auditors
- Directors

Mode

- Speed post
- E-means / courier

Voting can be done:



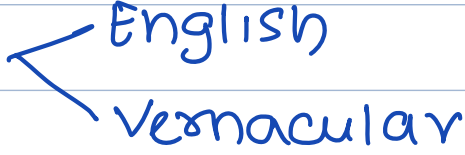
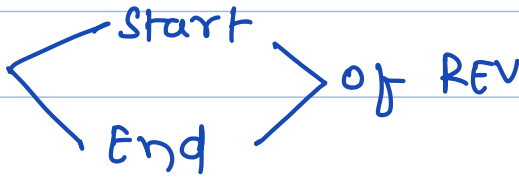
Note:

- 1) Members voting via REV may attend GM but shall not vote again
- 2) Votes, once casted, cannot be retracted.

Indicate the following in notice:

- Process & manner of e-voting
- Time schedule for REV
- Login in details + password

### ③ Publish in newspaper:

- Immediately on dispatch of notice but at least 21 ~~clear~~ days prior to GM
- 
  - English
  - Vernacular
- Specify in newspaper:
  - Statement that business to be transacted via e-voting
  - Date & time of  of REV
  - Cut-off date (not earlier than 7 days) (for determining eligibility to vote)

#### → Statement:

- REV shall not be allowed beyond said date/time
- Manner of voting at the meeting
- Member may participate in GM after REV but cannot vote again
- members as on cut-off date only are entitled to vote.
- Website of co., etc.

#### ④ Remote e-voting

- Open for  $\geq 3$  days
- Close 5 PM on preceding day of GM
- votes once cast, cannot be changed

#### ⑤ Scrutiny

- BoD to appoint
- one/more scrutineer
- CA/CS/Advocate/Non-employee
  - + Person of repute
- Can appoint assistance — Not an employee
  - + well versed with EVS

#### ⑥ Counting votes:

Immediately after conclusion of GM:

First count votes  
at GM

Thereafter Unblock REV

In presence of 2 witnesses  
not in employment

Make within  $\geq 3$  days of conclusion of GM:

Scrutinizer

Consolidated  
Scrutinizer Report

CP

→ Declare Results

↳ Countersign

## ⑦ Prevent dual votes (i.e., REV + At the meeting):

- Generally → REV <sup>votes</sup> to remain secret till votes are cast in GM.
- But, to prevent dual votes, Scrutinizer to have details of SH who voted but not the manner of votes

## ⑧ Register of Assent/dissent:

- Scrutinizer to maintain such register.
- Details 

Record assent/dissent received  
Basic details of SH and shareholding
- Such register remains in safe custody of Scrutinizer till approval of minutes by CP  
Thereafter, handover to Co.
- Result of resolution → Place on website.

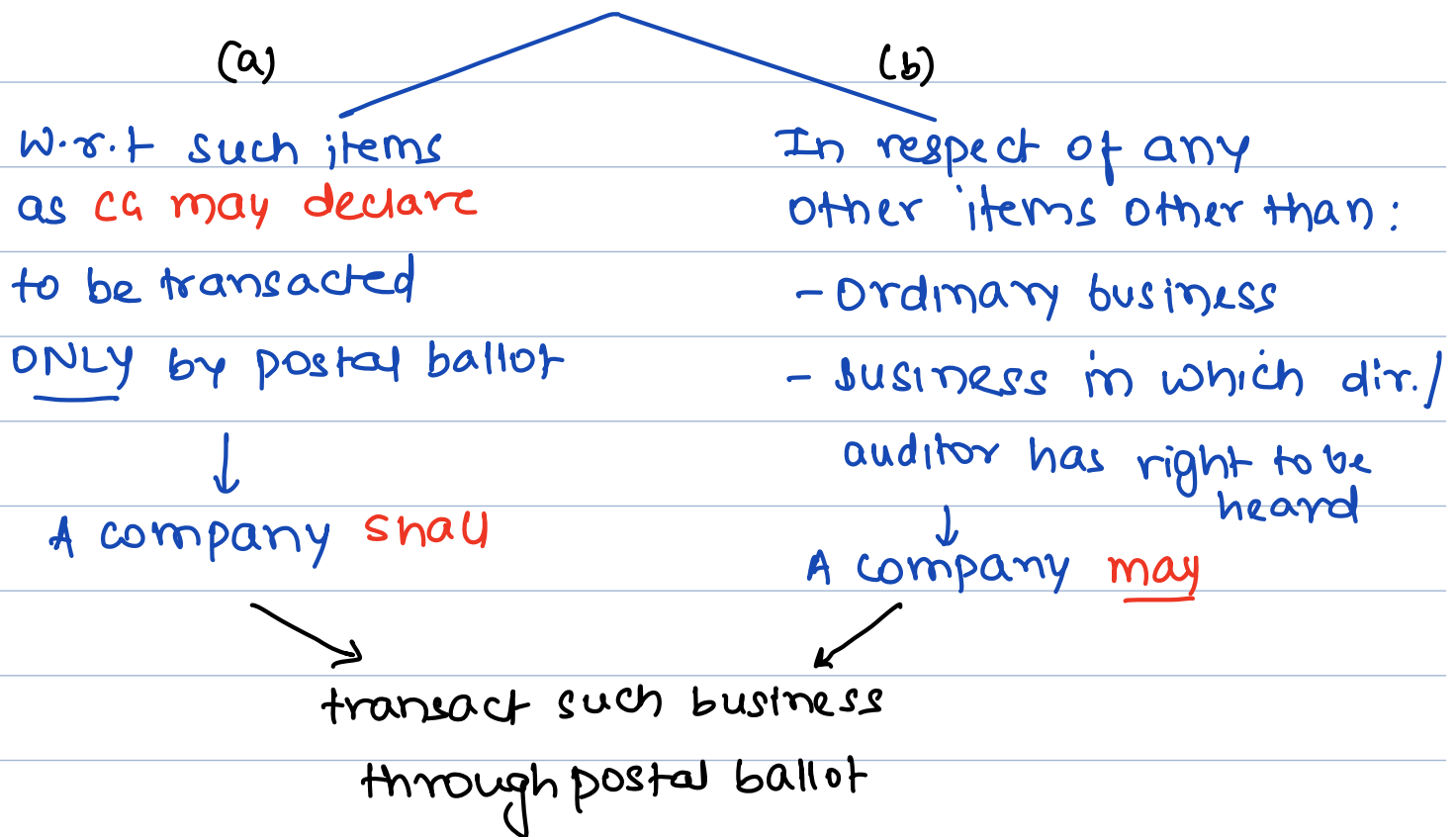
\* Deemed date of resolution ⇒ Date of GM

Note: Resol<sup>n</sup> proposed thru e-voting cannot be with-  
→ drawn

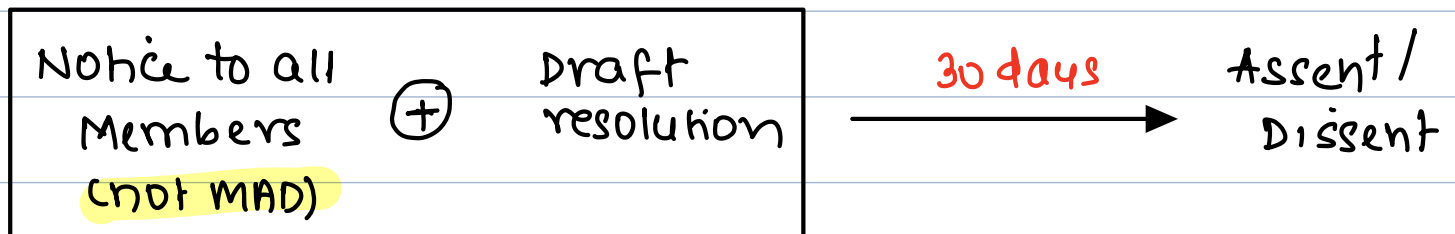
## Sec 110: Postal Ballot:

As per sec 2(65) - Postal Ballot means voting By post  
or  
E-mode

(1)



## Process of postal ballot:



Notice to → Members, ~~Aud.~~, ~~Dir.~~

Mode → R. Post, Speed post, e-means or courier



## Publish in newspaper:

- - English
  - vernacular
- Specify:
  - Business is being transacted thru P-ballot
  - start & end date of voting
  - Statement that:
    - Voting not allowed beyond specified date
    - members may apply to co. for duplicate ballot form

## Scrutiny:

- BOD to appoint
- One scrutinizer → Not employee
- P. Ballot received back - safe custody of scrutinizer
- Report to CP - 7 days

Rule 20 [voting through e-means] → Apply *mutatis mutandis*.

- Not applicable (Postal ballot) [even for mandatory sections]
  - OPC
  - Co. having up to 200 members

- Mandatory postal ballot:

13 - Alteration of object 

- ordinary
- Extra-ordinary

- 12 - change in RO outside local limits crv
- 43 - DVR
- 48 - Variation
- 68 - Buy back
- 151 - Appointmentment of SSP
- 180 - sale of undertaking
- 186 - loans / guarantee

### Section 114: OR & SR

#### OR

- Notice duly given  
(+)
- votes duly casted by  
entitled members / proxy  
(+)
- $V_f$  exceeds  $V_A$

#### SR

- Intention to move SR is  
specified in notice  
(+)
- Notice has been duly given  
(+)
- $V_f$  not less than  $3 \times V_A$

### Section 115: Special Notice

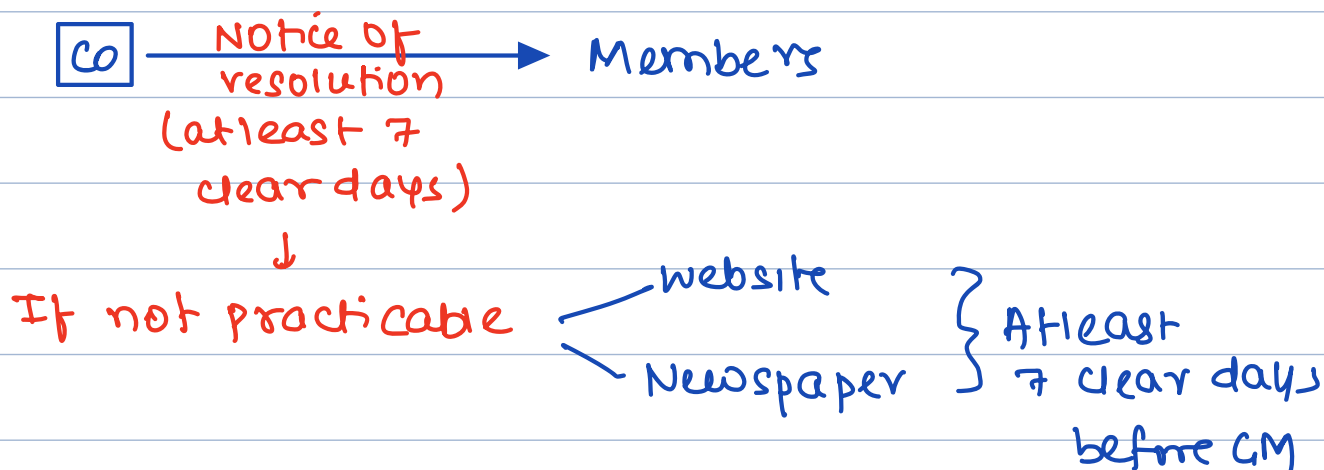
Where, by Act or AOA, special notice is required of any resolution, such notice shall be given in manner prescribed.

## Rule 23: Special Notice

(1) To be given by SH holding  $\left\{ \begin{array}{l} \text{Not less than } 1\% \text{ VP} \\ \text{or} \\ \text{Not less than PUSC of} \\ \text{₹5 lakhs.} \end{array} \right.$

(2) Time period — Not earlier than 3 months but at least 14 <sub>[clear]</sub> days before meeting. [Excl. day of notice & day of meeting]

(3) Immediately on receipt of such notice:



## Section 116: Resolution passed at adjourned meeting:

Resolution passed at adj. meeting → Treat as it has been passed on the date on which it was in fact passed and not deemed passed on any earlier date

## Section 117: Resolutions & Agreements to be filed:

Following resolutions/agreements (along with ES) shall be filed with ROC in form MGT-14 within 30 days of passing such resoln or making agreement:

SAB CA WOP

- S • SR
- A • Resolution agreed to by all members
- B • BOD resolution
- P • Resolution u/s 179(3) [Power of Board]
- W • Resolution for voluntary winding up u/s 59 of IBC.
- A • Agreement related to
  - Appt
  - Reappt
  - variation of terms } of MD
- C • Resolution/Agreement → Agreed to by class of members.
- O • Any other resolution/agreement.

\* copy of 

- Resolutions having affect of altering AOA
- Agreements mentioned above

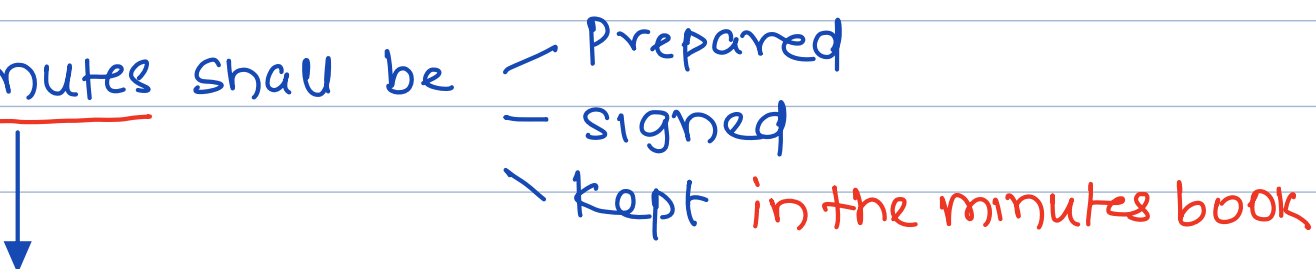
  
↓  
Annex to every copy of AOA issued thereafter.

Note: No person shall be entitled u/s 399 to inspect or obtain copy of resolutions u/s 179(3).

## \* Failure in filing with ROC:

CO  $\rightarrow$  Rs. 10,000 + ₹ 100/day  $\rightarrow$  Max 2 lacs  
OID  $\rightarrow$  "  $\rightarrow$  Max ₹ 50,000

## Section 118: Minutes of proceeding of GM/BM, etc.

(1) Minutes shall be   
↓  
Prepared  
signed  
Kept in the minutes book

Within 30 days of conclusion of:

- GM [of SH or creditors]
- BOD meeting
- Resolution passed by Postal ballot

(2) Minutes to contain — fair & correct summary

(3) In case of minutes of BM, include:

- Name of directors present
- Where a resol<sup>n</sup> is passed  $\rightarrow$  Dissenting directors

Q. Can CP remove a matter from minutes?

The following matter shall not be included

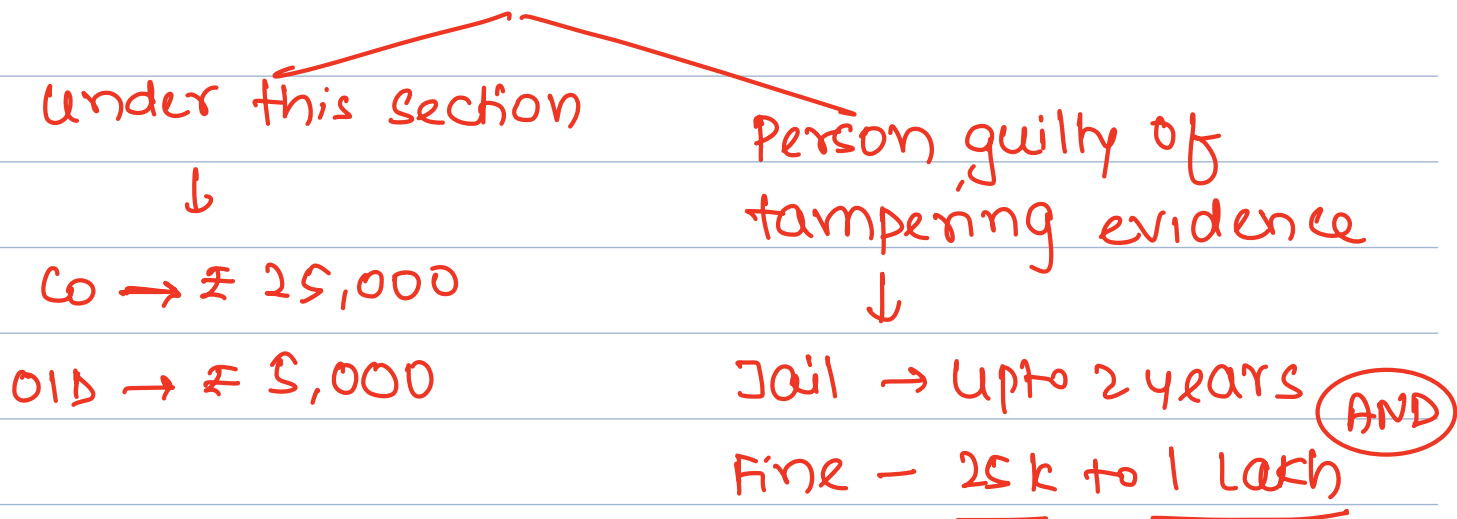
in minutes, which in opinion of Chairman, is:  
[DID]

- D - Defamatory of any person
- I - Irrelevant / immaterial to proceedings
- D - Detrimental to interest of co.

Chairman has absolute discretion to include/excl.

(4) Minutes = Evidence of proceedings therein

Contravention:



Rule 25: Minutes:

(1) Distinct minutes book to be maintained for each type of meeting → GM — SH  
→ BM ← CRS

Resolution by postal ballot → Record in minutes of GM in which deemed passed.

(2) In case of postal ballot, incl. following in minutes:

- Resolution proposed
- Result of voting
- scrutinizer's report

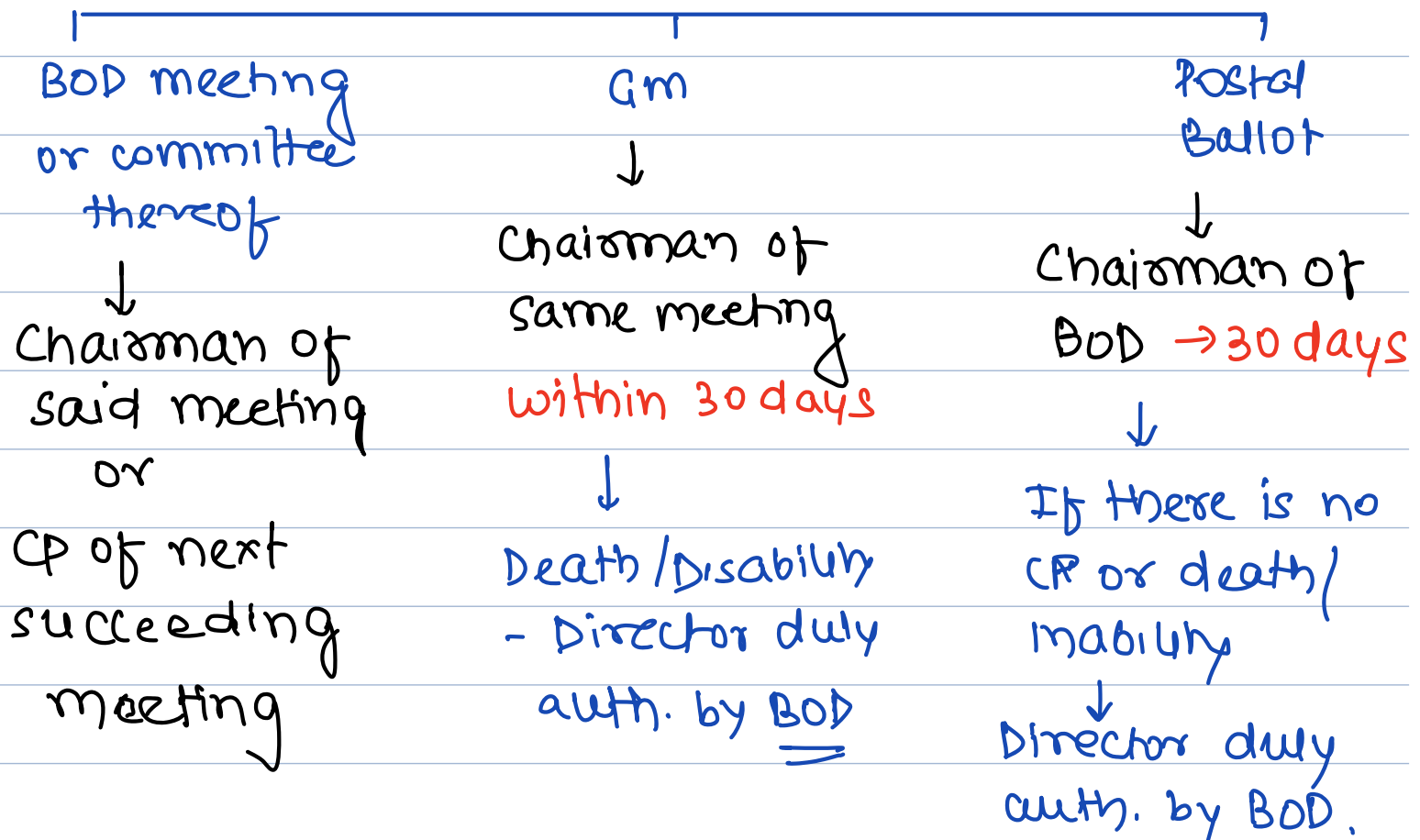
~~amp~~

(3) Each page of minute book - Initialed OR Signed

Last page - Dated & Signed



By whom?



~~imp~~

#### (4) Preserve minute book:

	<u>Gm</u>	<u>Bm</u>
Keep at	RO	RO or such place as BoD decide
Preserve	Perm.	Permanently
Custody	CS or director	duly auth. by BoD

Sec 118 → N.A. to Sec 8 co.

Except: If AOA provides for confirmation of minutes by circulation, record within 30 days.

Section 97 to 99

SAIL VOTE

#### Sec 97 - Power of Tribunal to call AGM:

- Notwithstanding Act / AOA (non-obstantate clause)
  - In case of default in holding AGM
  - Any member may make application to Tribunal &
  - Tribunal may  $\left\{ \begin{array}{l} \text{call or} \\ \text{direct calling} \end{array} \right\}$  AGM of the co.
- and give consequential direction.



Provided that: Such direction may include → 1 member present in proxy/person = Deemed quorum.

Such GM held → Deemed AGM of co.

## Sec 98 - Power of Tribunal to call EOGM:

- Other than AGM, if it is impracticable to call, hold or conduct a meeting as per Act/AoA:  
[CHC]

- Tribunal may — Either suo motu OR  
on application of director  
or member

↳ Tribunal may order a meeting to be CHC  
and give consequential direction.



Provided that: Such direction may include → 1 member  
present in proxy/person = Deemed quorum.

Such meeting = Deemed meeting duly CHC

Section 99: Punishment for default u/s 96  
— 97  
  \ 98

Default — u/s 96/97/98  
— complying with Tribunal's direction  
↳ Co. & O/D → Fine — ₹ 1 lakh

+  
continuing default → Further  
5000/day

100 101 102 103

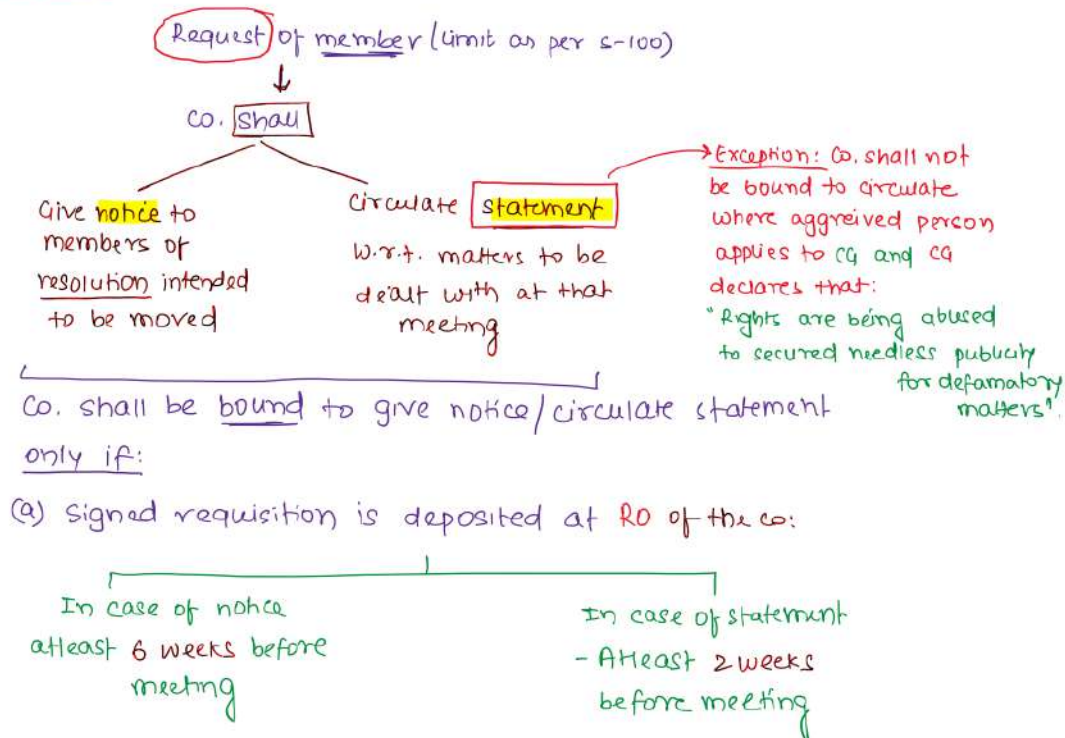
104 105 106

107 108 109 110

→ covered

## Section 111: Circular of member's resolution:

Section 111:



(b) Deposited → sum reasonably sufficient to meet expenses to give effect thereto.

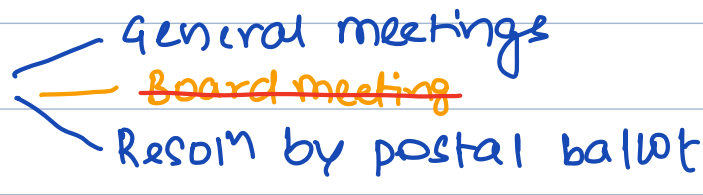
Note: After copy of requisition to give notice is deposited (say 10th May), AGM has been called within 6 weeks after deposit of requisition

↓  
Deem that such requisition is properly deposited

Default: → CO + OLD → ₹ 25,000

Note: Requisition u/s 111 shall be given  $\leftarrow$  2 copies signed by req.  $\rightarrow$  deposit at RO.

## Sec 119: Inspection of minutes - book

(1) minutes book of 

- kept at RO

- Open to inspection → without charge - during business hours subject to imposing restriction by AOA/am (not < 2 business hours)

(2) On request of members + fees as per AOA (not > 210/19)  
→ furnish copy within 7 working days

Provided that → Soft copy of minutes of immediately preceding 3 FY → furnish free of cost

(3)

Inspection refused

copy of minutes not furnished

CO — ₹ 25,000

OID — ₹ 5,000

} for each default or refusal

Also, Tribunal may, by order:

Direct immediate inspection of minutes

(or)

Direct that copy shall be sent to person requiring it.

## Sec 120: Maintenance & inspection of docs in e-form:

- (1) Every  $\begin{cases} \text{listed co.} \\ \text{co. having } \geq 1000 \text{ SH, DH and OSH} \end{cases}$

may maintain records/docs in e-form

- (2) Person responsible for e-records:  $\begin{cases} \text{MD} \\ \text{CS} \\ \text{Authorized director} \end{cases}$

- (3) Records maintained in e-form shall be available for inspection in e-form

## Sec 121: Report on AGM:

- (1) Every Listed Public Company shall prepare a report that  $\rightarrow$  meeting was CHC as per Act & Rules

- (2) File with ROC - 30 days - MGT IS

- (3) Default : Penalty  $\begin{cases} \text{Co} - 1 \text{ lakh} + 500/\text{day max } 5 \text{ lakhs} \\ \text{OID} \rightarrow \text{Not less than } 25K + 500/\text{day} \rightarrow \text{max } 1 \text{ lakh} \end{cases}$

### Rules

- (1) Reports u/s 121 are in addition to minutes.

- (2) Signed & dated  $\rightarrow$  CM and CS

$\downarrow$   
Inability - 2 Director  
(MD, if any)

(3) Report to include: [A BOLD MCQ]

- Adjournment
- Business transacted
- Other
- Law compliance
- Details - Day/Time
- No. of members
- Chairperson } confirmation
- Quorum }

### Sec 122 - Applicability of Chapter to OPC

(1) Sec 98 + 100 to 111 → N.A. to OPC  
(Bhai, 96, 97, 99 & 100 nahin lagaya)

(2) Conduct ordinary business at AGM as below:

- Member to communicate resol<sup>n</sup> to Co.
- Co. to enter in minutes book
- Signed & dated by member, and
- Such date → Deemed date of GM.

(3) Passing BOD resol<sup>n</sup> in OPC in case of only 1 director:

→ Director Resol<sup>n</sup> → Co.

↓  
- Enter in minutes book

⊕

- signed & dated by such director

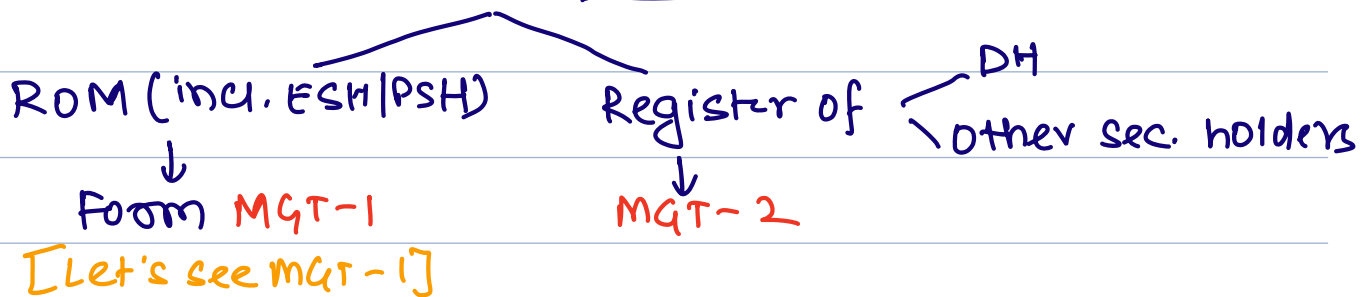
↳ Date of BOD meeting.  
Deemed

## Summary 1 of MGT forms:

- 11 - Proxy
- 12 - Polling paper
- 13 - Scrutiny report (7 days)
- 14 - Resoln to ROC [sec 117]
- 15 - Report of AGM [sec 121]

## Sec 88: Register of members (ROM), etc.

(1) Every co. shall keep and maintain:



(2) Every register shall include index on names included therein [Index not necessary if members < 50]  
(If exact 50 → index required)  
Half Century

(3) Register + Index of beneficial owner ⇒ Deemed compliance of Act

### Rules relating to ROM:

- Entry to be made within **7 days** of allotment/trf
- Maintain at **RO**. However, **SR** may be passed to keep RoM at:

Any other place  
within CV of RD

Any place within India  
in which  $> 1/10^{\text{th}}$  of  
total members reside

[If total = 1000, min. 101 members reside there]

- special information in ROM:

- In case securities are **attached** — SFBI  
— competent auth.  
↓  
giving directions w.r.t. remittance of  

Dividend

Interest

- In case of listed shares, where **promotor** has created pledge, charge on his shares - mention details **within 15 days**

- Changes in status of members — Death  
— Insolvency  
— Trf. to IEPF  
↓  
Record in registers.

- Details as prescribed to be included in RoM.

#### (4) Foreign Register:

- If so authorized by AOA,
- Co. may keep outside India
- a part of register called Foreign Register
- containing details of members/DH/etc residing outside India.

#### Rule 7: Foreign Register:

(1) File with ] → within 30 days of opening of FR  
ROC → File MGT-3 [Notice of situation of office]

(2) Change in situation → Intimate - 30 days - MGT-3

(3) Foreign Reg. = Deemed part of principal reg.

(4) Inspection/copies of FR = same manner as principal reg.

Closure of FR = Advertise at least 2 newspaper  
circulating in place where FR is kept

(5) Transmit data to RO :

- COPY of every entry in FR - Within 15 days
- keep at such office - Duplicate FR

(6) Discontinue FR:

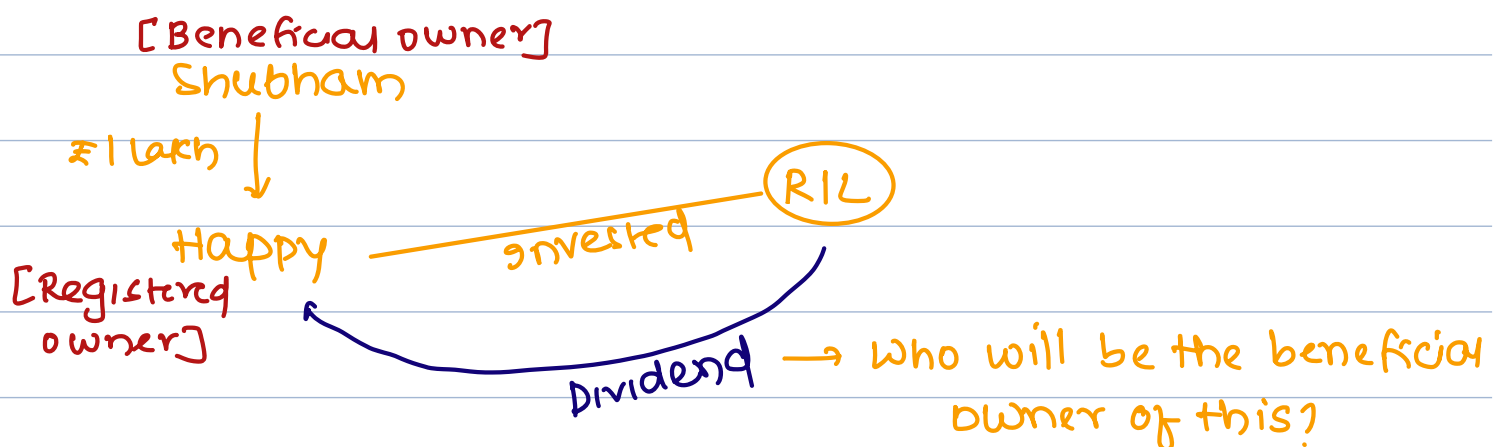
↳ Transfer all entries

Other FR kept o/s and to Principal register.

\* Failure u/s 88      Co - 3 lakh  
                                    \      - 50K

Read concept clarity notes from summary book

Sec 89: Declaration of beneficial interest in share



Registered owner  
[named in RoM]  
Happy

Declaration  
MGT-4  
[30 days]

Co

MGT-6  
30 days

Beneficial owner  
(holder of beneficial  
interest)  
sublim

Declaration  
MGT-5  
[30 days]  
(take a note)

↓  
ROC

\* Any change in beneficial interest → Declare to Co. within 30 days.

\* Where declaration under this section is not made  
— No rights in respect of such shares shall be enforceable by such person claiming beneficial int.

\* Dividend shall be paid to? → members (not beneficial owners)

\* Penalty:

Failure to make declaration to Co. →

50K + 200/day → max 5 lakh

Failure of Co. to file MGT-6:

Co - 1000/day - max 5 lakh

OID - 1000/day - max 1 lakh

\* Trusts created for mutual funds, Venture cap fund  
— Such declarations not required

Section 90 after 91 & 92

## Section 91: Power to close ROM/DH/OSH:

(1) Co may close ROM/DH/OSH for:

- Aggregate 45 days in each year **AND**
- Not > 30 days at any one time

Previous notice of such closure to be given  
in prescribed manner of at least 7 days

(2) Contravention → Co & O/D : ₹5000/day - Max 5L

## Sec 92: Annual Return:

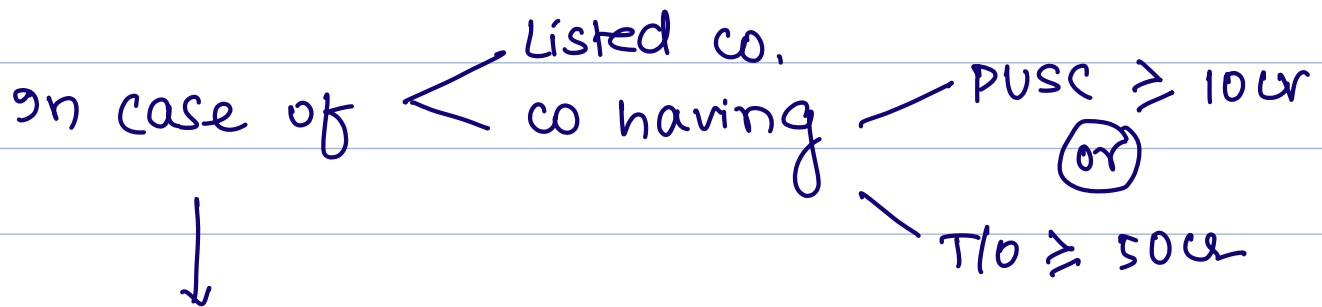
(1) AR to contain following details:

- B • RO, Principal Business Activity
- G • Group cos — Particulars of H, S and Associates
- R • Remuneration - Director / KMP
- SH { • SH Pattern
- Members / DH / OSH → Previous FY
- K • Promoter / Director / KMP + Change since PFY
- M • Meetings — GM, BOD, Committee
- P • Penalty on Co.
- C • Certificate of Compliance
- F • Fills
- O • Other matters

## (2) Annual Return:

	<u>OPC/Small Co</u>	<u>Other Co</u>
Form	MGT-7A	MGT-7
Sign	CS (If no CS, then director)	Director + CS ↓ In absence, CS in practice

## (3) Certification by CS in practice:



AR shall be certified by CS in Practice in MGT-8

AR discloses the facts correctly and adequately

Co. has complied with all provisions

## (4) Few additional points:

- Place AR on website
- Co. to file AR with ROC within 60 days from date of AGM.
- If no AGM held in any year:

- File in 60 days from date on which Aam should have been held (+)
- Statement specifying reasons for not holding Aam.

(5) Penalty: Co - 10K + 100/day → max 2L  
 DID - 10K + 100/day → max 50K

→ CS in P for contravention → ₹ 2 Lakh

Section 90: Register of Significant Beneficial owner in a company: (SBO)

Meaning of SBO:

- An individual

- Acting  $\begin{cases} \text{Alone or together, or [Direct]} \\ \text{through one/more person or trust [Indirect]} \end{cases}$

- Possess any of following rights in reporting to:

[S - DIV]

S • Holds  $\geq 10\%$  of share (directly + indirectly)

V • Holds  $\geq 10\%$  of voting rights (" + ")

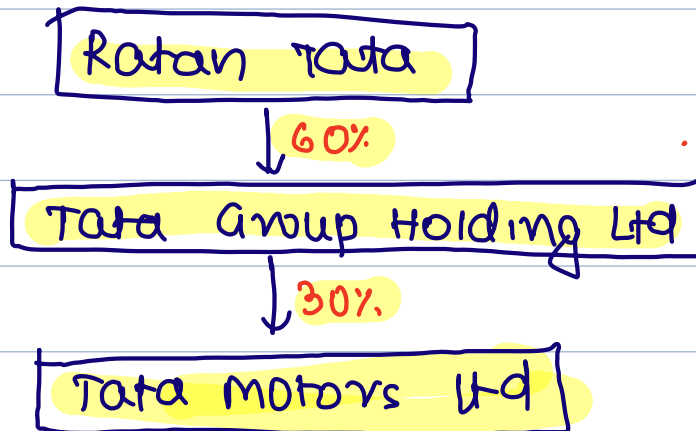
D • Has right to receive  $\geq 10\%$  of total distributable dividend (directly + indirectly)

I • Right to exercise significant influence/control

in any manner (Other than direct holdings alone)  
Isko sirf likh lo, samajhna nahi hai.

Significant influence: Power to participate in financial and operating policy decision but is not in control/joint control of this policy.

Example:

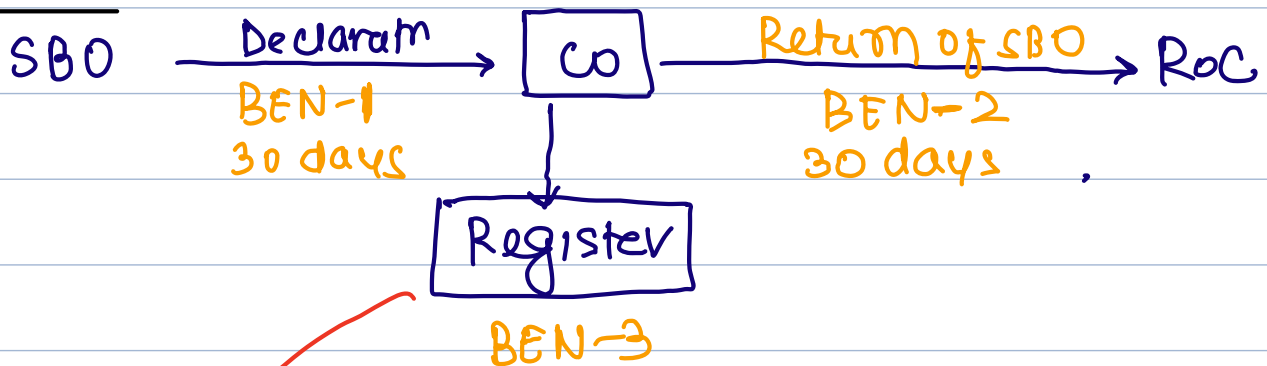


Q: Is Ratan Tata an SBO in Tata Motors Ltd → Yes

Q: Is Ratan Tata an SBO in Tata Group Holding Ltd?

NO

Provision:

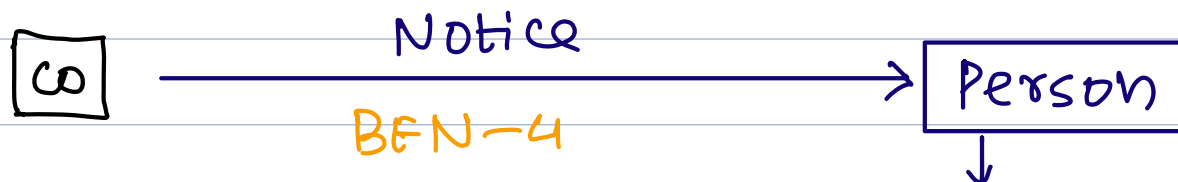


Inspection during business hours (not < 2 hours)

→ By members + Prescribed fees (not > ₹50) per inspection.



Company to send notices to SBOs who haven't declared:

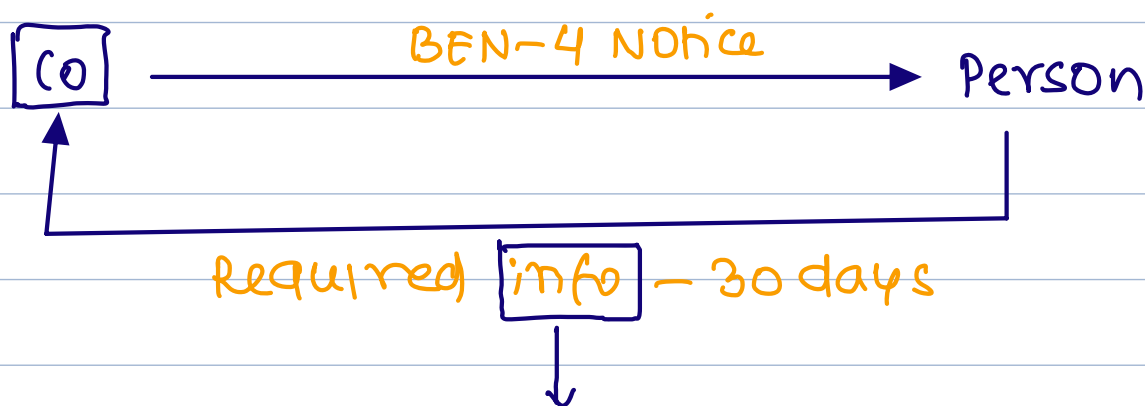


Whom Co. knows / has RGTB:

- to be SBO
- having knowledge of identity of SBO
- had been SBO in last 3 years

(+)

Not registered as SBO.



- Person fails to give info
  - Info. is not satisfactory
- } Co. to apply to **NCLT** within 15 days

NCLT may order:

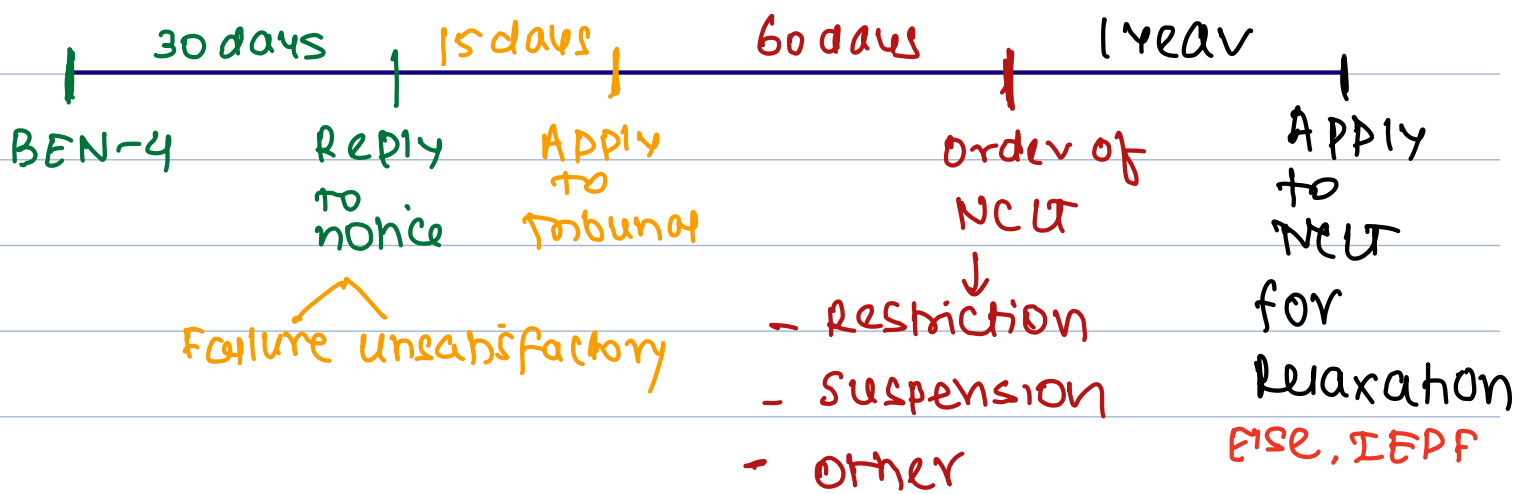
- Restrictions w.r.t. transfer [within 60 days]
- suspension of rights attached [after OOBH]
- other matters

Aggrieved person may → Apply to NCLT for relaxation / lifting restriction within 1 year of order.

If no appn made

→ Trf shares to IEPF.

### Summary of BEN -4 timeline:



### Penalty:

Failure to make declaration (BEN-1)

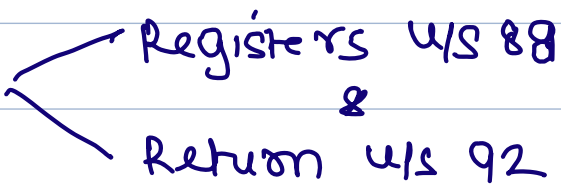
- 50K + 1K/day upto RS. 2 lacs

Failure to maintain Register (BEN-3)

- 1 lakh + 500/day upto ₹5 lakh [CO]
- 25000 + 200/day upto ₹1 lakh [DID]

Person wilfully submits wrong info → Liable u/s 447.

## Section 94: Place of keeping & inspection:

This section talks about 

### (1) Place to keep:

- kept at RD
- May be kept:
  - At other place in India
  - In which  $> 1/10^{\text{th}}$  of total member reside
  - By passing SR

### (2) Preserve & custody?

	<u>Preserve</u>	<u>Custody</u>
ROM	Permanent	CS or any other director authorized
R of DH/OSH	8 yrs $\rightarrow$ Redemption	
FR of member	Permanent (unless discont.)	
FR of DH/OSH	8 yrs $\rightarrow$ Redemption	
Return u/s 92	8 yrs $\rightarrow$ Filing.	

### (3) Inspection:

- During business hours (or reasonable time not  $< 2 \text{ hrs}$ )
- Fees?
  - Members - Free
  - Others - Presc. fees ( $\leq 50 / \text{inspection}$ )

(4) Extract?

Any person



w/o payment  
of fees

Copies?

Any person



Request copy + fees ( $\leq 10/\text{page}$ )  
↓  
Co to provide in 7 days

(5) Refusal to inspect/copies:

Penalty: Co  
DID ] 1000/day  $\rightarrow$  max 1 lakh

+ CQ may order { immediate inspection  
Provide copies forthwith

Section 95: Register to be prima facie evidence  
↓  
u/s 88 + 94  
↓  
of any matter inserted therein.

### Question 23:

For the sake of avoiding confusion & mixing up, each resolution in the general meeting shall be moved separately. However, it would not be illegal if a company decides to move multiple resolutions together.

As per section 162, each director shall be appointed by a separate resolution. However, where the shareholders agree by the way of unanimous resolution, multiple directors can be appointed in a single resolution.

In the given case, the co. proposes to move 9 resolutions together, out of which 2 relates to appointment of directors.

Considering the above provision, the co. will have to appoint each director by a separate resolution. Besides the said resolutions, the other 7 resolutions may be moved together.

Answer 34: